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THE
ADMINISTRATION
OF THE
BRITISH COLONIES.

THE FIFTH EDITION.

WHEREIN THEIR
RIGHTS AND CONSTITUTION

Are discussed and stated.

By THOMAS POWNALL,

Late Governor, Captain General, Commander in
Chief, and Vice Admiral of His Majesty's Pro-
vinces, Massachusetts-Bay and South-Carolina;
and Lieutenant-Governor of New-Jersey.

IN TWO VOLUMES.

VOL. II.

*Pulchrum est benefacere Reipublicæ, etiam benedicere
bonum absurdum est.*

SALLUSTIUS.

L O N D O N:

PRINTED FOR J. WALTER,
AT HOMER'S HEAD, CHARING - CROSS.

M.DCC.LXXIV.

PART THE SECOND.

WHERIN

A Line of Government between the Impure Spirit-
 dition of Great Britain, and the Rights of the
 Colonies is drawn.

A Plan of Pacification is suggested



The "New Essay on the Constitutional Power of the Parliament over the Colonies."

W A H T I W

A P P E N D I X

Patients referred to in both the First and Second Parts

Historia de Saline. Fundus Populus deinde vocatur.
 tur. De nostris vero Republicis, de nostro Imperio, de nostris Gallis, de
 ut videtur: Tum utrum rursus fuit an non, disputandum esse videar-
 ete videtur, et statim, non de nostris, sed de iure, quo iure
 calmedis, et quidamlibet Populus sine iure, sine Ave, sine iurisdictione
 nostris, non duo iure sunt. Cum aliquid Populus Romanus fuit, id est
 Hic Vis est iuris de Jure de Veris. Ut rursus Populus, penes

M. T. Cicerone, Orat. pro Balbo. §. 8.

THE
ADMINISTRATION
OF THE
BRITISH COLONIES.

PART THE SECOND.

WHEREIN

A LINE of GOVERNMENT between the supreme Jurisdiction of Great Britain, and the Rights of the Colonies is drawn,

AND

A PLAN of PACIFICATION is suggested,

To which is added,

A POSTSCRIPT,

BEING

REMARKS on the Pennsylvania Instructions,

AND

The "New Essay on the Constitutional Power of the Parliament over the Colonies."

WITH AN

A P P E N D I X,

CONTAINING

PAPERS referred to in both the FIRST and SECOND PARTS.

Hæc Vis est itius & Juris & Verbi. UT FUNDI POPULI, beneficio nostro non suo jure fiant. Cum aliquid Populus Romanus jussit, id si est ejusmodi, ut quibusdam Populis *sive fæderatis, sive liberis*, permittendum esse videatur, ut statuant ipsi, non de nostris, sed de suis rebus, quo jure uti velint: Tum utrum FUNDI facti sint an non, quærendum esse videatur. De nostrâ verò Republicâ, de nostro Imperio, de nostris Bellis, de Victoriâ, de Salute, Fundos Populos fieri noluerunt.

M. T. CICERO, Orat. pro Balbo. §. 8.

(v)

THE
ADMINISTRATION
OF THE
BRITISH COLONIES.

PART THE SECOND.

P R E F A C E.

A LINE OF GOVERNMENT BETWEEN THE IMPERIAL
GOVERNMENT OF GREAT BRITAIN, AND THE RIGHTS OF THE
COLONIES.

SEVERAL friends, who have read, and
approve, the opinions and doctrine con-
tained in the following, doubt whether
the present be the proper time for making
them public. Although they think that if
the subject had been, at the first outset of
this business, taken up on this ground,
many difficulties which we are now en-
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impending over us, might have been avoid-
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(1)

P R E F A C E.

SEVERAL friends, who have read, and approve, the opinions and doctrine contained in the following tract, doubt whether the present be the proper time for making them public. Although they think that if the subject had been, at the first outset of this business, taken up on this ground, many difficulties which we are now entangled in, and many of the evils which seem impending over us, might have been avoided; yet—on the matter of the issue to which things are now brought—they doubt whether this, or any other reasoning which holds out *a line of* PACIFICATION, will have any effect at all, or even be read at this hour. —Whether this species of reasoning, com-

ing from *a Briton* at the moment when *the American* hath advanced upon us, may not tend to encourage that spirit which has already gone too far, by seeming to cast a doubt on the justice of the British cause.

Some think that *a temper of compromise* hath a betraying aspect, when it is opposed to declarations, which renounce all such temper. — Others think that it may be hazardous too much, if it is not actually hurtful, even to parly when the adversary is lying at watch, to seize every advantage that can be made even of the hopes of concessions. —

If I had not perfectly satisfied myself as to all these doubts : nay, if I had not a conviction, stronger than all prudential considerations respecting myself—that the publishing what I have here written, would have a *tendency to pacification*—I could have no motive upon earth to do it.—I feel that I shall not be approved by many of my countrymen; and I am sure I shall be extremely disapproved

disapproved by the Americans.—Vanity can neither tempt my views, nor can interest lead my hopes *in this course*.—Under the first consideration I do confess, as I sincerely think, That neither this, nor any other *line of pacification*, will at present take effect, or come into practice: But if there be not some such in theory, in contemplation, that may by degrees gain upon the minds of men; our disputes must inevitably go to war, and our war (like an Indian war) to utter extirpation.

If we are to *treat*, there must be some line to which our negotiations must have reference: If we are to *fight*, there must be some line which shall bound and be the end even of our victories.

Some such line is necessary: and as I do most stedfastly believe that THE LINE OF COLONIAL GOVERNMENT which I have proposed in the following papers, is that of all others the nearest to truth, which is most likely, *in the course of events*, to be fallen

into—I cannot but think this the very proper time to publish it.

I own, that to parly, where the party doubts his own grounds, or his own spirit, is hazarding too much: But where all is right, and sure within; when such parly proceeds from that conscious feeling, it may oftentimes produce good effects, which arms and force may destroy, but not produce.

If moderation and compromise would lead to CONCESSIONS of our rights, or of that power which ought to maintain them, it becomes a seducing and a betraying spirit. Nothing can be gained, but every thing may be lost by such concessions. Yet surely explanations, defining on one hand those rights which you are determined to exert and exercise; and, on the other hand, those liberties which you do not mean to infringe or violate, but to support; at the same time that it gives a proof of your justice, marks your firmness; and is more terrible to the eye of

an encroaching adversary than even force itself; in the noise and tumult of which, justice and injustice may be confounded. Those alone, who have a bad cause, standing on artificial ground, may doubt that tone of truth which is in *the small still voice*: But this conduct is fit for him alone, who having justice on his side, hath, as rectitude, so an unconquerable firmness in his heart.

On the contrary, Those in America who have held the language and the doctrines, that there is no line between sovereign power (absolute in all cases whatsoever) and no power at all; that any modification of subjection is equally disloyal and disobedient, as a total renunciation of all subjection;— have driven a people, already half mad, to utter desperation, and have given source to all the evils which Great Britain and America must experience.

There is danger, on the other hand, in the semblance of moderation, where, when it interposes, it hath a tendency to divide.

As

As I could not but think that there was something which might have that tendency in the Pennsylvania Instructions, and in the Essay annexed to them; and as I apprehend that propositions of a similar nature may come forward with still more weight: I thought some few remarks might be useful, such as may guard us against too hasty an adoption of preliminaries, which though they may offer, and really mean peace, might, without explaining the terms and conditions on which 'tis offered, entangle us in the inextricable grounds of dissention and war.

I examine these by *a line of Colonial Government*, which none of those who are engaged in controversy, on the one side or the other, will approve: I meddle not however with controversy, “ * *Verum enim in-
venire volumus, non tanquam adversarium
aliquem convincere.*”

I wish the government of this country to define its own rights; and standing on

* Cicero, de Fin. lib. 1. §. 5.

that sure ground, to acknowledge those I of others. I with the people of America, as they love liberty, so to honour true government, which is the only basis on which real liberty can stand: and in that line to see peace. In support of this, and to this cause, is the following tract, written in this dreadful crisis, DEDICATED.

November, 1774. such as may guard us against the adoption of preliminaries, which though they may offer, and to which we might, without explaining the terms and conditions on which it is offered, entangle us in the inextricable grounds of dissention and war.

I examine these by a line of Colonial Government, which none of those who are engaged in controversy, on the one side or the other, will approve: I meddle not however with controversy. "Verum enim vero, remitte volumus, non tamquam adversarium, aliquid committimus."

I with the government of this country to define its own rights; and standing on

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THE
ADMINISTRATION
OF THE
COLONIES.
PART THE SECOND.

THE former part of this Book was written at the close of the last war, and published after the establishment of the peace. It described the change which was taking place in the politicks of the European governments, from the commercial interests of their Colonies becoming so active and important a part of the system: It marked the crisis that was then coming into event; it suggested reasons, arising from the nature of that case, why the government of Great Britain should begin seriously to consider of weaving these interests into the system of its administration: It even presumed to propose measures calculated for the

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obtaining to the government of Great Britain such experimental and actual knowledge of the affairs and interests of the Colonies, as might become adequate to the governing of them; as might give, at the same time, to them such assurance and confidence in, by communion with, the spirit of the government of the mother country, as should create that *consensus obedientium* which is alone the bond and tie of practical and efficient government. It considered the state of the administration of the Colonies in those points in which the government of the mother country took the supreme lead, direction, and controul over them. It examined how the supreme controuling power of the government of Great Britain, in matters which respected the union, vitality, and safety of the whole empire, had acted; what system it had established, what it should establish. The author did not, in the first editions which the book passed through, enter at all into the disquisition of the state of that relation by which these Colonies, as external communities, stood connected with and subordinate to the body of the Realm. — Convinced “how very unsafe a thing it is in settled governments to argue the reason of fundamental constitutions” &c. &c. Commons Journal 1672. studiously

studiously and conscientiously avoided all the questions, in which I could not but see this matter was involved.

As I saw an attention to American affairs arising in the minds of most men of business; I was in hopes that these points, dispassionately and deliberately considered in the true spirit of council, might be settled on the grounds of prudence, and of real government, by those who alone could really settle them. I own I was in hopes that that true system of efficient government, founded in political liberty (which all seemed to profess *here*) might be established in the Colonies: I was sure, from the temper and genius of the people in America (as they were when I knew them) it would be nourished and maintained *there*. I have had the chagrin to find, on the contrary, that from the moment in which American affairs became an object of politics in this island, they became the tools and instruments of parties. They have been taken up and acted in only on party-views, on party-considerations. Instead of any general plan or system of policy being applied to the governing them as parts of the whole; their particular plans have been applied to the interfering in our government, as this or that direction of their movements could be brought to add

to the momentum of this or that party *here*. Hence it is that every misconceived idea, under which the Colonists can be supposed to have emigrated, to have settled, and on which their communities can be supposed to be established, have been taken up as *principles*. Every fleeting measure which the fluctuation and variableness of government, in the empiricism of its opinions for many years past, hath caught at, has been quoted as *precedents* of the true spirit of government towards the Colonies. The constitutions and the rights of the Colonies became thus unsettled: and parliament, as well as ministers, have been balancing in opinion, what is the legal and constitutional mode of administration, by which the Colonies are to be governed: The Colonies, on the other hand, from a like spirit, have so often shifted and advanced the ground of their claim of rights, that the best reasoning of their truest friends, even the most active zeal of their warmest partizans, have fallen short in the course. Men having divided themselves into various contending interests on the matter, *the lines of their conduct have diverged into various curves of measures*, on each case, as it arose and might be made to operate in our political disputes.— To describe these in their utmost *divergings*, one may say, that one side in the array of those

those exertions, which they have thought necessary, have wrought themselves up to the maintaining a spirit of EXTERNAL GOVERNMENT, which goes in its consequences to *absolute despotism*. The other side, in the alarm and revulsion of their spirit against these supposed principles, have gone into a contrary extreme, in actuating a spirit of INTERNAL GOVERNMENT within their respective jurisdictions, which must *train* to *absolute sovereignty* in the Colonies, independent of the government of Great Britain. These various opinions, interwoven into the manœuvres of political efforts, came at length into actual discussion on the matter of practice. The questions which arose were no longer of curiosity and theory: they were brought into issue by deeds and overt acts. I then first proceeded, from the consideration of those principles, by the vigour of which all free communities are governed *within* themselves, to the examination and discussion of the external relation in which the Colonies, as communities of Englishmen, in *partibus exteris*, stood to the sovereign power of the kingdom of Great Britain.—I pursued this inquiry by an analysis of the circumstances under which they emigrated, and of the principles on which these communities were in fact settled.—I found them *in fact*, wherever the government of

England interposed in their settlement, or in regulating their establishment,—to be *de facto* & *de jure* counties palatine—I found them established on the precedent of the county palatine of Durham. I then, by an exact deduction of the procedure of the realm of England in respect to these kind of principalities, found that these were bound to perform towards the empire of England all services which arise from the duty of subordinate parts of it, to maintain the union, safety, and vitality of the whole: yet that in the case of AID AND SUBSIDIES, *which are of free will*, they could not, in the strict legal acceptation of their rights, be bound by the gifts and grants of the representatives of the realm not representing them*—and I produced cases wherein, when they excepted to the being thus bound, they were held excused and free therefrom.—I found however that they had in fact been bound by acts and statutes made and ordained by authority of the parliament of England: I found that imposts, customs, and port duties, *raising revenues, included in grants which the Commons of England and of Great Britain had made to the King*, were laid and imposed by those acts: I found that the King himself, *in his government* of these external

* Vide Appendix, No VII. the Case of Chester.

communities, was bound by the law and statutes of the realm respecting them; and by such as the parliament should from time to time make respecting them. Although the King alone executed both external and internal government over these colonies; yet it was in virtue of that office by which he represents the whole majesty of the empire, acting without the realm, in like manner as he does represent it in its foederal acts and compacts with foreign states—I found the subordination of the colonies to the supreme authority of the parliament of England (afterwards of Great Britain) to stand exactly in the same predicament with the subordination of the counties palatine, and principality of Wales; which, before they had knights and burgeses to represent them in parliament, were nevertheless bound by acts of that parliament, as far forth as the other counties of the realm were, which had knights and burgeses to represent them in that parliament. As the procedure of government, both in its reasoning and acts, towards these palatinates and principalities, went to that remedy which was the true one, both in fact and right—namely, to the admitting them to a share and participation of power and will in that parliament, by admitting their representatives into it: I applied both the doctrine and procedure of this precedent to

the case of our Colonies, I endeavoured to deduce from, and to recommend upon the matter, such a system as might tend to form and establish a *British union* of all the parts of the British dominions into a *unit whole*, an *organized body*, animated by a free will, extending to all. " 'Tis in their legislature (says Mr. Locke) that the members of a commonwealth are united and combined together into one coherent living body. This is *the soul* that gives form, life, and unity to the commonwealth." It was from this principle that I very seriously endeavoured to recommend an union and organization of all the parts of the British dominion; and the measure of permitting the Colonies (they retaining, at the same time, all the rights and franchises of their proper government, to all the purposes of internal jurisdiction) to send knights and burgesses to represent them in parliament. By which, as *this sort of government was a combination and union of the vitality and will of all the parts*, its supreme power and absolute will might extend over the whole; and yet the whole remain, in every part, morally, politically, and absolutely free. I very seriously recommended such a *British union*, as the only sure measure which would prevent the certain alternative of an *American union*, distinct from and independent of Great Britain. The true

true system of the British empire, as it lies in nature, is such an union.—Nature knows no such distraction and separation of interests as the practices and powers of man have introduced *. But whatever may be the nature of things, whatever may be the true grounds of reason founded thereon, such are the systems of men in action, such their principles in reasoning, that the very attraction which naturally draws them together—creates in their spirit, when they are thus drawn together, a principle of repulsion, that is too hard for nature, truth, and right.

The first attempt which was made to establish a systematick subordination of the American Colonies under the sovereign and supreme government of Great Britain, considered these Colonies as *external communities*; that is, as without and distinct from the community of the realm; considered them as subjected parts, which, although they had no participation in the vitality and will of this governing community, were yet to be governed by its power. The measure by which this subordination was endeavoured to be established, considered those communities as beings, which were to be governed by the vigour of principles deriving from without, although they were com-

Vide Mr. Grenville's letter in the Appendix, N°. I.

munities

munities having *within* themselves a spontaneity, and moral free-will. The attempt, therefore, instead of attracting to, and uniting them in a one common center, has created a principle of repulsion, a spirit of resistance, which hath led, like another building of another tower of Babel, to the confusion of languages, and to the dispersion of the people.

I had conceived an idea of our Colonies as shoots which the old tree, in the vigour of its health had put forth. I viewed them as spreading branches of the same *organized plant*, advancing in its natural vegetation: but I found, alas, this system to be a mere vision. Our Colonies have, in practice, been considered as *cyons shot from layers*. While they drew their subsistence from the parent stock, they have been permitted to strike a separate root, *the beginning of a new and separate plant*: they have been long nurtured and brought forward in this distinct systematick organization, and have, *occulto velut arbor ævo*, grown up to a strength and magnitude which even bears some comparison with the old stem. The parent tree begins to view these shoots *as a separate plant*, and with its over-topping branches casts over them a shade rather of jealousy and mistrust, than of its old affections: the young shoot

in its exuberancy *feels itself as a separate plant*, and begins to find the old connecting layer as rather curbing and cramping, than as supporting its increasing vegetation. What, under this state of things, may be the proper culture for the future, is the purport of the following enquiries and disquisitions.

The British Colonies are to be considered for the future, since America as well as Great Britain will have it so, although parts of the EMPIRE, yet as no parts of the *state*: although offsprings, and still British subjects; yet as external dominions dissevered and distinct from that *organized* body, which is called the kingdom of Great Britain. They are to be considered, since America as well as Great Britain will have it so, as removed from, and incapable of being admitted to a perfect participation in the legislature, the soul of the British dominions. The politics of Great Britain will consider them, for the future, as subject to the King, not as sovereign head of a *being*, of which they are in part *the body*; but as subject to the King, *in his parliament*, as head of another being, of which the people, the *communitas*, the British realm, is the body; and of which body the Colonies are no ways parts, *participants, and integrant*. The politics of America, on the other hand, consider these
external

external communities, each as parts of a political body, of which the King (as part) is the head: That therefore they are subject to the King as to their own head. How wide soever these two lines of reasoning may diverge from each other, yet both set out from one point: namely, *that the Colonies are separate and distinct communities without the realm.* The one system of politics says, that they are, as such, subordinate in all cases whatsoever, to the government of a superior sovereign community: the other system allows and admits of * *a certain mode of subordination, carried to a certain degree:* and therefore say, that if they are free British subjects, *this sovereign must be limited;* and that, although it may be difficult to draw the line of limitation, yet some such there must be. I think that those are not to be heard, who affirm, "† That no line can be drawn between the supreme authority of parliament, and the total independence of the Colonies;" because, "‡ if there

* Resolved, That his Majesty's subjects in these Colonies owe the same allegiance to the crown of Great Britain, that is owing from his subjects born within the realm, and all due subordination to that august Body the Parliament of Great Britain.

Congress met at New York, Oct. 19th, 1765.
† Governor Hutchinson's Speech to the Assembly, Jan. 6th, 1773.
‡ Assembly's Answer.

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“ be no such line, the consequence is, ei-
 “ ther that the Colonies are vassals of the
 “ parliament, or that they are totally inde-
 “ pendent.” I shall therefore, in this se-
 “ cond part of my work endeavour, “ how-
 “ ever arduous the task may be, to draw a
 “ line of distinction between the universal
 “ authority of parliament over the Colonies,
 “ and no authority at all *.”

It is from very false and artificial ideas of
 the nature of the political community of a
 state, from party reasoning on the nature of
 government; that so many wild and im-

* If your Excellency expects to have the line of di-
 stinction between the supreme authority of parliament,
 and the total independence of the colonies drawn by us;
 we would say, it would be an arduous undertaking;
 and of very great importance to all the other colonies.
 And therefore could we conceive of such a line, we
 should be unwilling to propose it *without their consent in*
congress.

House of Represent. of Massachusetts, answer to
 Gov. Hutchinson. — January 26th, 1774.

If from the nature and end of government, the su-
 preme authority of every government must be limited,
 the supreme authority of parliament must be limited;
 and the inquiry will be, what are the limits of that au-
 thority, with regard to this Colony. To fix them with
 precision, to determine the exact lines of right and
 wrong in this case, as in some other, is difficult, and we
 have not the presumption to attempt it.

Answer of the Council of the Massachusetts, to
 Gov. Hutchinson. — January 25th, 1774.

practicable

practicable notions have been propagated on the nature of emigration and colonization. Notions which go to the dissolution of all government, and to the erecting as many of the parts of a state, as in the *spirit of rebellion* fly off from it, into distinct states independent of it. It does therefore here become necessary, to recur back to first principles.

I shall therefore inquire how an individual, or a number of individuals *can separate* themselves from the society, community, or government, to which they belonged, and of which they were parts. How, being thus separated, they can become *distinct communities*, and in what relation of connection or subordination such distinct communities must stand to the community from whence they went forth. Different cases arise, and very different conclusions derive, according as the nature of the community from whence the emigration goes forth, is stated to be; or as the regions, to which the emigrants go, and in which they settle, are found to be circumstanced; as whether they be absolutely *loci vacui*, or belong to some other state, or can be considered as external parts of the empire of the state, from whence the emigrants departed. I shall mark the false conclusions as they derive,

derive, from false states of the case; and I shall then endeavour to state the actual case of the colonies of Great Britain, as they now stand in fact; although I think that state (as I have said) an artificial one. Lastly, from thence I shall attempt a description of that state of government, which must operate between a kingdom, and such other communities as are esteemed, although parts of its empire, yet *external parts and without that kingdom*. I mean to inquire what the government should be, *rebus sic stantibus*; so that the unity, vitality, and efficiency of the empire of Great Britain on one hand, and the rights and liberties of the colonies (as communities of British subjects on the other) may be preserved, maintained, and supported.

The first case exists in that temporary society, under which the individual finds himself, from the nutrition which he receives from his mother, and from the protection under which the father brings him up to manhood. When he arrives at this state, the connection, and the law under which the son stood, ceasing with the end effected and perfected, the united subordinate state of the son becomes dissoluble. He hath a perfect right to emigrate from *this society*, to provide for himself, and to settle wherever he shall

shall find the means of so doing. He therefore stands *disunited from all union*; discharged of all subordination, and free from all government of the parental power. The obligations of gratitude, the ties of affection, are eternal, and must remain so long as the parent lives; but these are the duties of the *inward*, not of the *outward* man, who is the object of government.

If two fraternal branches of a family, co-existing under a common father; or two independent equal individuals, leagued in a mutual communion of society, choose to separate from each other: the emigration of the one from the other, is a perfect disunion of all connection; a perfect discharge of all claims from the one upon the other; and they immediately form two distinct, intire, and independent communities. The above cases exist in fact and right, and come into practice amongst the Indians of North America, * who are not yet advanced in the progress of human nature, *to the forming communities organized by governments.*

If there is any state so constituted in the definite form of its dominions, and by the principles of its government, that these do-

* Memorial presented to the late duke of Cumberland, Vide Appendix.

minions are of a determinate unalterable extent and frame, so that it can neither receive addition to its body by accretion, nor can extend its soul (if I may here, after Mr. Locke, so call the government of it) beyond these limited bounds of its realm: so as that it neither possesses nor claims any right of jurisdiction, over any region external to, and without, the body of such state: and if the government of such state is so constituted, that it considers its present component subjects, or its future offspring, as connected and united to the state *by their will and consent only*; then the government of such state being a compact or covenant, *quod * actum habet transeuntem*, which commences, and is dissolved at the will of the parties; emigration and colonization from a state, so framed and constituted, may take place at the mere will, and of the mere right of the emigrants.

If any state can be supposed to be of this constitution, and of this frame of empire; then indeed the propositions stated, by Dr. Burnet, and by Mr. Locke, are true and practicable; “ That a subject may put himself under the protection of any foreign state; that he may become naturalized to any other government, by which his al-

* See Grotius, L. 1. c. 3. §. 21.

allegiance is transferred. That being born a subject of no country or government whatsoever, until by his own act he connects himself, he is at liberty to depart from any such government, only quitting those possessions and lands, by which alone (they being inseparably part of the community) he is connected to the state. — From communities thus formed, and that thus explain the constitution of their government (if any such there be) the subject is at liberty to migrate, and with others, of the same right, to form distinct communities *in partibus exteris*, perfect and intire societies, *sui juris*, independent of the state from whence they came forth.

The consequences as here drawn, may suit the cases from whence they are deduced: — but these are not the cases on which we must reason — this is not the case of a community organized by government into that “*consociatio plena & perfecta vite civilis cujus prima productio est summum Imperium*” *. It was not, in fact, the case of the Grecian states, who have been so repeatedly quoted, as examples in proof of this reasoning. They did not permit their subjects, as of right and of their own will,

* Sola hic illud quod an civibus de civitate spectare licet, venit non in. 2. c. 2. §. 24. Grotius, lib. 2. c. 9.

to go forth and separate from the community of the state — on the contrary, they decreed the severest penalties against such desertion. It was indeed of the spirit of the administration of their governments, to permit, as an act of the government, their subjects to migrate and colonize. — And as they did not extend their imperium to the holding possession of dominions, without or external to the state; so whenever any of their subjects, by permission implied or expressed, did emigrate, set down, and settle in *partibus exteris* — if they were parts belonging to any other state — the allegiance of such subject or subjects, was transferred to that state, within whose jurisdiction they so settled; or if those external regions were in *vacuis locis* — the emigrants became *sui juris* — the colony became a new and perfect community of itself — began a new commonwealth, independent of the state from whence it came forth.

The question here then comes to its proper issue* — Whether of right a citizen or subject, can depart and separate himself from the community of an established state, without leave first obtained?

* Solet hic illud quori an civibus de civitate abscedere liceat, venia non impetranda. *Quintus*, lib. 2. c. 5. §. 24.

In order to state this matter on its true ground, we must review the *nature and end of society, as organized by government*: — and I cannot do that better, than by using the reasoning and very words of † Grotius to this point. “ Qui in civitatem coeunt, societatem quandem contrahunt, perpetuam & immortalem, ratione partium, quæ integrantes dicuntur. Unde sequitur has partes non ita esse sub corpore ut sint partes corporis naturalis, quæ sine corporis vitâ vivere non possunt, & ideo in usum corporis recte abscinduntur. Hoc enim corpus, de quo agimus, alterius est generis, voluntate contractum scilicet — ac propterea jus ejus in partes ex primæva voluntate metiendum est, quæ minime credi debet talis fuisse, ut jus esset corpori partes et abscindere, & alii in ditio-nem dare. Sic vicissim parti jus non est a corpore recedere.

“ * Sane gregatim discedi non posse satis expeditum est ex necessitate *finis*; quæ jus facit in moralibus, nam id si liceat, jam civilis societas subsistere non possit — de singulorum discessione alia res videtur, sicut aliud est ex flumine aquam haurire

† De Jure Bell. & Pac. Lib. 2. c. 6.

* Ibid. c. 5. §. 24.

“ aliud

“aliud riyum diducere.” Here Grotius, fascinated by the brilliancy of his simile, forgets his reason as more truly drawn from the vital organization of the civil body. However, he recovers himself, and adds;—
 “tamen hic quoque servanda est regula naturalis æquitatis——ut id non liceat *si societatis inter sit.*”

Mr. Locke † describes the civil organization of government as a *living body*, animated by a soul which gives form, life and unity to it.

By this principle, every individual that exists, or shall arise within the communion, is a part of it as of *one whole*; a member of it as of *one organized whole*: and is therefore, by nature and right, actually and indissolubly connected with it, so long as that particular union and organization shall continue.

No individual or number of individuals therefore can, from a distinct principle *within themselves* (that is from their own will, and of their own motion) emigrate and quit the community, so as to separate and fly off from the system.—As in nature the power of repulsion begins where that of

† B. 2. §. 212.

attraction ends; so here in polity, any power in the individual to emancipate himself from the natural tie of this attractive principle, must necessarily introduce the principle of repulsion, to all the effect of corruption and dissolution.

As this attraction is that which gives *unity* to, and preserves the *vitality* of the community; the spirit of government must be actuated by this principle, as continuing that union and organization. — To this, as to the final cause of government; to this, as the support of it, as a *living principle*, must all the lines of its power converge.

There may, however, many cases arise, and many such have arisen, not contrary to, but conspiring with this true principle of government, when states may connive at and disregard the going off of certain emigrants; nay, may even find it for the health and well-being of the state, that such do fly off.

In cases where the departure of such individuals as generally do wish to emigrate, can be of no great hurt to the community, governments have constantly connived at, and disregarded such emigrations: they have rather considered such, as throwing off the particles

particles of a peccant humour from the body, than as suffering any hurt or loss in the community. When these kind of emigrations of individuals have taken place, without any circumstances which might occasion damage or diminution, or bring any mischief or danger to the state; the governments of all countries, have almost constantly acquiesced in, by taking no notice of them: but the individual has not thereby acquired any right, *sui juris*, thus to emigrate, otherwise than, and so far forth, as the state of which he was a member, has suffered a dereliction of its right to him. On the contrary, wherever governments have taken notice of these emigrants, as departing under circumstances hurtful to the state, they have always deemed such emigrant a fugitive, and his act of emigration as criminal *.

There may arise other cases, in which states may permit even numbers, in whole bodies to depart from them. If a state bounded in its dominions, confined from the nature of its own system, in the form

* I might here establish this proposition as a fact in polity, by stating an invariable series of examples and precedents, taken from the Roman and Grecian states; indeed I had so done, but finding it a matter of tedious details, and that the argument requires not those aids, I have passed them by, and rest the matter on the spirit, constitution and practice of our own government alone.

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and size of its own natural body; feels itself loaded with a repletion of blood;—it then comes a natural relief to it, to throw off part; and thus many states have done, by sending out swarms of colonies. If a state finds itself too narrowly circumscribed in the operations of such natural powers as have grown up within itself; and that there are objects of trade and settlement without, to which, if it should send some of its subjects, although it cannot extend the limits of its own *corporal vitality*, it might, however, greatly strengthen and benefit its own *internal interests*; such state will, on this motive, (many have so done) send out colonies for the purpose of actuating such beneficial interests. Yet the sending out these colonies, the suffering these emigrations, must originate with, and be the act of the state; and must be conducted by and carried on, under the protection of the original state.

If states permitting or promoting emigrations, suffer the emigrants to settle on lands belonging to other states—they suffer for the allegiance of such emigrants to be transferred to that state.

If they suffer them to settle in *locis vacuis*, and to acquire a separate *dominium*, they then

then suffer them to become a community, *sui juris*—which was the precise case of the Grecian Colonies;

But if these Colonists settle on lands which in *partibus exteris*, are (according to the usage and law of nations) the dominions of that state from whence they came forth; then, although these Colonists should be permitted to form separate and distinct communities, to establish governments having *sovereign jurisdiction, within the limits of their own corporation*; yet being settled on the lands, land within the dominions, although external dominions, of the parent state; these colonies remain under a certain relation of allegiance to its general and supreme Imperium.

Let us now apply these principles, and this doctrine, to the actual state of the British government and British colonies: and from thence endeavour to explain *what is that relation of allegiance, under which they are bound to the imperium of Great Britain; and what that species of sovereign jurisdiction is, which, consistent and coincident with the general imperium of Great Britain, they may and do hold, exercise and enjoy.*

“ By

" By the common law of the Realm (says
 " Mr. Justice Blackstone) every man may
 " go out of the realm, for whatever cause
 " he pleaseth, without obtaining the King's
 " leave; provided he is under no injunction
 " of staying at home. (Which liberty was
 " expressly declared in King John's great
 " charter, though left out in that of Henry
 " the Third :) but because that every man
 " ought of right to defend the King and
 " his realm; therefore the King, at his plea-
 " sure, may command him by his writ, that
 " he go not beyond the seas, or out of the
 " realm, without licence: and if he do the
 " contrary, he shall be punished for dis-
 " obeying the King's command." — The fact
 is, that the subjects of this country, from
 the earliest establishment of its government,
 having connections with Rome, and the
 people, from the earliest time, having been
 a commercial people, have exercised this li-
 berty of going abroad from usage, time out
 of mind. But *this going abroad was never*
considered as emigrating, as that act by which
 the member of the community separated
 himself from and quitted his connection with
 the state. On the contrary, when this li-
 berty of going abroad was suffered or per-
 mitted, it was always under condition, im-
 plied or expressed, "** quod se non divertat*

ad partes externas sine licentia regis."—And that this liberty was to be enjoyed and exercised under the limitation of these conditions, is plain, from the statute of Clarendon, in the tenth year of Henry the Second, called the Assize of Clarendon, wherein, *Facta est recognitio cujusdam partis consuetudinum & libertatum antecessorum Regis*; And from the nature of the writ or proclamation, which the King hath of all times been empowered to issue. And Sir Edward Coke, in stating the rights of the crown, and the custom of the realm on this head, grounds and explains it on those very principles of government in general, which I have above described in the analysis that I pursued. Nay, if we had not seen, in the analysis above pursued, how the governing power is bound to maintain *the union and vitality* of the state; an explanation of these proceedings in the actual exercise of government, in the reasons and ground of them, would have led us to the same proposition. By whatever liberty, practised or assumed, it is, that the subject, as of right at common law, *goes abroad*, without asking or taking leave: no subject does or can *emigrate* (in the proper sense and idea of that act) without the King's licence had, or supposed by his conniving at it. This power is lodged in the office of the supreme magistrate, in the

the King "as the representative and delegate" of the whole community in this act. From the King every British Colony, which went forth of the realm to settle in *partibus exteris**, had licence to transport themselves, their children, their servants, and their goods, and to settle in these foreign dominions of the crown, on lands which were to be holden of the King, his heirs, and successors, Kings of England, as of the crown of England.—They were to remain under the protection, and in the liganee of, and in subordination to, the sovereign power of the crown, *as here the delegate of, and representing the whole nation.*—This power of the supreme sovereignty is expressly and specially reserved in the very act of granting to them the summum imperium of government, within the limits of their own jurisdictions. Fact and reasoning, hand in hand, hath thus led us to the actual state of the British Colonies—and mark that, as in fact,

* "Our ancestors, the first settlers of this country, having, with the royal consent, which we humbly apprehend involves the consent of the nation, and at their own expence migrated from the mother kingdom."

Address of the House of Representat. of Massachusetts Bay, Boston, Jan. 20, 1768.

The Descendants of his Majesty's Subjects in the Realm, who migrated with the consent of the nation.

Their letter to Lord Shelburn, Boston, Jan. 15, 1768.

so in right, they are external distinct communities of Colonists, who migrated from the mother country, with the consent of the nation, and with the same consent have settled on lands, which are the external dominions of that nation — That they have thus emigrated, and thus settled, with express conditions that the *individual* should have, hold, exercise, and enjoy all the liberties, franchises, and pre-eminences of British subjects — That *communities*, thus composed of such individuals, should have full and perfect political liberty, both of jurisdiction and legislation, as far as * is *consistent with a subordination* to the sovereign jurisdiction and supreme legislature of the whole empire. From the notions of this subordination, which are generally current, it will be very difficult to form any idea of its nature, and of the rights derived from it. Great Britain says, that it is not necessary, in order to give right to its power, that the subordinate state should have any communion or participation of will with the will of the governing state. The Colonists, on the other hand, say, that such an equal communion of will, as should give freedom in the exercise of it, *becomes utterly impracticable*, from the remote and separate situation of their local circumstances, rendered thus incommunicable; and that therefore, a se-

* Letters, as above.

parate legislature is an absolute right of a community of British subjects residing out of the seat of the empire. Here then comes in the question, *Quid An summum imperium habere possit is, qui inaequali fœdere tenetur.* The colonists say, that "there never existed, nor ever can exist, a state thus subordinate to another, and yet retaining the slightest portion of freedom."

This prompt declaration treads on the deceitful and dangerous ground of general propositions; distinction becomes necessary, when it is applied;—I shall therefore go into a more precise examination of it.

"So far as any thing is passive, so far it is subject to necessity; so far as it is an agent, so far it is free: for action and freedom are, I think, identical terms. The spring of action is the self-motive power, which is in animals spontaneity, and in rational ones, what we call liberty." "God which moveth mere natural agents as an efficient only, doth otherwise move intellectual creatures." Every being, moral and political, that is a free agent, must have reason and will; and

* Grotius, lib. 1. c. 3. § 21.

Meeting of Provincial Deputies of the several counties of Pennsylvania, instructing their assembly.

† Dr. Clark's Letters on Liberty.

‡ Hooker, B. 1. § 4.

the

the power of exercising that in what we call choice. It is in the reasoning and will of the legislature, in the soul (as Mr. Locke expresses it) of the political body, that this freedom consists and resides. How then the will of any superior governing being, (the governed having no communion nor participation in that will which acts upon it *ab extra*) can act towards this subordinate, without destroying its freedom, seems indeed, as the people of the Colonies say, an arduous task, if possible, to describe. Arduous I acknowledge it to be, but not impossible; and the difficulty which does occur, lies not in the thing itself, but in the tempers, with which men generally come to the consideration of it. These matters are seldom thought on, never seriously discussed, until the passions of parties call forth the discussion—and then they never examine their own ideas, but oppose those of others. In the present hour there is (as the sailors term it) a lull in the storm that hath been up—Before the next blast, which is thickening black and heavy in the wind's eye, bursts down upon us, let us calmly and deliberately examine this matter; and begin by examining our own ideas.

Where Will resides it must be absolute. The will of a man is absolute over his own being: yet he is a free agent, because the
spring

spring of that will is within himself. “ * The
 “ lawful power of making laws to command
 “ *whole political societies* of men, belongeth pro-
 “ perly unto the same intire societies.” This
 Will of the society must be absolute over the
 whole body of the society, but being in the soul,
 the integrant self-motive part of that being,
 the intire society acts only on itself, and is
 therefore free. As of the Will, so of the
 executive part of such being, it may be said
 to remain free, † *dum rex ei præsit ut caput*
istius populi, non alterius populi, nam im-
perium quod in rege est ut in capite, in po-
pulo manet ut in toto, cujus pars est ca-
put. Here then the government springing
 from within, the whole intire society acts
 from its own spontaneity, and by the vigour
 of the principles of its own nature. This
 government, therefore, I will define by a
 word, which precisely and essentially expresses
 that nature, and will call it INTERNAL GO-
 VERNMENT.

“ ‡ That being which has not the oppor-
 “ tunity or liberty of choosing for itself, and
 “ acting accordingly from internal principle,
 “ acts (if it acts at all) under a necessity in-
 “ cumbent *ab extra.*” *Ubi rex ei præsit*
ut caput alterius populi. “ It is only an

* Hooker, Ibid. §. 10.

† Grotius, lib. i. c. 9. § 8.

‡ Mr. Woolaston, Relig. of Nature, sect. 1. prop. 1.

“ instrument

“ instrument in the hand of something
 “ which imposes the necessity, and cannot
 “ properly be said to act, but to be acted.”
 That Being which hath not, in its own nature, self-motive power, is not an agent. That moral or political Being which hath not within itself these springs, and that cannot, of itself, act from the internal vigour of these springs, is not free. If the motive power acts *from without*, and if the Being acted upon *has no communion in, no participation with, the will of the governing power*—this government may be called, as in fact it really is, EXTERNAL GOVERNMENT.

“ The art of civil government (says Mr.
 “ Harrington *) is twofold; *national* and
 “ *provincial*.

“ National is that by which a nation is
 “ governed independently, or within it-
 “ self.

“ Provincial government is that by which
 “ a nation is governed dependently, or by
 “ some foreign prince or state.

“ Force is of two kinds, natural and un-
 “ natural. Natural force consists in the vi-

* In his Political Aphorisms.

“gour of principles, and their natural necessary operations.”

“Unnatural power is *external*, and adventitious, in opposition to the vigour of principles, and their necessary working, which from a violation of nature is called violence.”

“National government is an effect of natural force or vigour.”

“Provincial government is an effect of unnatural force or violence.”

What I have here above described, gives the true ground of distinction in nature and on principle, between INTERNAL AND EXTERNAL GOVERNMENT: and I have the more particularly endeavoured to analyse and mark this distinction—because it hath been of late a sort of fashion, even amongst some learned men, and popular in general, to scout all such distinction and its consequences, as groundless and ridiculous.

However, when I come to consider that system, by which the British Colonies (if they must be held as distinct external communities) are to be governed; the line of my reasoning runs not in either of these diametrically

cally opposite courses. I neither think *that* government (free and sovereign as it may be, within the limits of its own jurisdiction) which is given to the Colonies, and by which they act, *national and independent* : nor can I ever admit, that the imperium, by which Great Britain doth of right govern her Colonies, is *provincial* ; is that unnatural force or violence, which, being intirely *external*, must place the governed in a state of absolute slavery *. I do not believe that Great Britain wishes or means to act by *provincial* government towards the Colonies : nor do the Colonies, in fact (speaking of what was the general spirit of them) aim to establish a separate independence *by national government*. Both the one and the other, however, have advanced their claims, and even their acts, beyond that line, which, in right and policy, is the true boundary between them. The spirit of dispute hath wrought up in each fears, jealousies, and suspicions, that neither the one nor the other will think themselves safe, unless they have each some advanced fortified posts, even beyond the line of their boundary. When *this line* is rightly understood, that understanding may give a confidence which shall become the true ground of pacification.

* Beneficio quàm metu obligare homines malit; exterarumque gentes fide ac societate junctas habere, quàm tristi subjectas servitio. Liv. Lib. 26. § 49.

I think *this line* by nature, and in principle, is plainly to be marked on the true grounds of policy, between the two extremes above described; and that between *national and provincial* government, there is a mixed or COLONIAL GOVERNMENT.

Colonial government, so far as it respects the acts of the Colony operating within its own jurisdiction, on its own body, and in matters respecting its own rights only, is *internal*, and as such, and so far forth, absolute and sovereign. It is, so far as respects its own jurisdiction, within its own community, national, though not independent. It cannot be independent, because so far as it is a part (under a peculiar state of organization) of the whole empire of Great Britain, it is subordinate.

Where a people or colony is permitted to go forth (and without such permission, as is seen above, it cannot go forth) and to form, *in partibus exteris, a distinct and intire community*; and where that community consists of individuals, persons who have the rights, liberties, and franchises of British subjects, they have, “* carrying with them the laws “ of the land wherever they form colonies,” a right to *political liberty*, as far as is con-

* Pratt and York.

sistent with the vital unity, efficiency, and *salus suprema* of the imperium of the sovereign state. They have a right to have, hold, and to enjoy, within the body of that Colony, a *free government* of the like rights, jurisdictions, and pre-eminences, as they did enjoy within the state from whence the colony emigrated. They have a right to enjoy the like power of reasoning and will in a similar legislature; a like judicature, and like executive powers, so far as respects their interior rights, within the bounds of their corporation, as the government of the mother country hath within its realm. In short, the Colony hath a right, as a *politically free Being*, to all those *internal powers*, which are essential to its being a *free agent*.

On the other hand, the *supreme sovereign power* of the mother country hath a right to actuate and exert, even up to the very bounds of the line of the jurisdiction of the colonies, provincial or external government. All the laws which it hath made, either those of state for the maintenance of its own rights, or those which are *maritime*, and commercial, for the regulation of the rights of its subjects, without the realm, and not within any colony, are of this spirit.—The moment that any British subject, or the property of any British subject, comes

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forth.

forth, *without the line of its colonial jurisdiction*; and is not yet within the realm of Great Britain—it is under the jurisdiction of this *external government*. The moment that it passes the line which bounds the jurisdiction of the colony, it is no longer in the jurisdiction nor under the protection of its own government; it enters the actually exercised jurisdiction, and comes under the immediate protection of the government of the kingdom. Where the one ends, the other must begin.—It is, therefore, on this actual state of the case, that the supreme government hath a right to exercise and exert *upon this line* its whole and sovereign power: it is on this actual state of the case, that the government of Great Britain hath the same right as all other governments have, hold, exercise and enjoy, to make all regulations whatsoever, and to impose all such duties and customs, on the transit of goods, passing the boundaries of its jurisdiction, as the œconomy and necessities of the state shall require.—This right, even exercised, does not interfere with any rights or franchises which the Colonists have, or can enjoy, equally with any other his Majesty's subjects of the realm.—And yet, so far as respects the Colonies, this is external, or provincial government. There is also even in the internal government, which the Colonies have
a right

a right to, and to enjoy, *a mixture of external government*.—For first the whole body of the government must remain and act as subordinate to the government of the mother country.—The King also even in his administering the powers of their internal government, by himself, or his lieutenant, must conform this his administration not only to the laws of the Colonies, but to such laws of the mother country, as shall from time to time be made for the regulation and controul of them: for it is the parliament alone that can superintend the mode of their government. The King, or in the language of our constitution, those ministers who advise him, and instruct his lieutenant the governor, are amenable to the laws and parliament of the supreme government. He cannot do, nor by his authority permit, any thing to be done, contrary to the laws or majesty of the government of Great Britain. The legislature is bound, as it did establish, so to support his majesty's government: and in all cases of difficulty, to which the actual powers of the crown do not regularly extend, the king must apply to parliament for such support.

There may arise cases in which the supreme power of parliament ought, at its own instance, to interpose. If either the

King, or the people of the Colonies, should adopt any principles, or take any measures which tend to a dismembering of the empire; if the King should consider the lands as belonging to himself personally, in his seignoral right, distinct from the right which the state has in them; if the Colonists should construe their right of property, as deriving from any power or right, independent of the property which the community had in them; if the king should consider the people of the Colonies as his subjects, in his foreign seignoral dominions; if the people should aim to consider the king as their *seigneur, ut caput sui populi*; if they advance beyond the bounds of their jurisdiction, and *there* assume to act; and in act to impede or repel the will and exercise of the supreme and sovereign government of the mother country;—if they thus cease to act *as Colonies*, they render it necessary, and a duty in the sovereign power of the supreme government, to act towards them *as Provinces*, and to govern them by *external or provincial government*, which is force, as above described.

If they dispute the grounds of their subordination; and reject those regulations by which their acts and interests are to be governed; if they withhold intentionally, or
from

from difficulties as to quotas, &c. that aid and duty which they are bound to afford, and pay, to the maintaining the safety and defence of the whole empire; if they attempt to form positive alliances, or hold secret connections, either in their federal or commercial capacity, with foreign states, in direct violation of the laws, and to the hurt of the majesty of the supreme empire; if they presume to do acts federal, or acts of hostility, independent of the government of the mother country—the government has not only a natural, but an * express right, *to put them out of its protection*, to reduce them to provinces (in the sense of Roman provinces) superceding that internal government wherein and whereby they before acted as political free agents. This is the true intent and meaning of the act of parliament, which declares the *right of parliament to make laws binding upon the Colonies, in all cases whatsoever*; which refers only to cases of necessity, and not to the wantonly and arbitrarily interfering with, or superceding that political liberty; which they have, so long as they do not misuse it, an absolute and indefeasible right to have, hold, use, exercise, and enjoy. While they perform their duty of *aid and*

* This is an express and positive stipulation, even in the Charters of the greatest latitude of liberty.

service

service to the supreme government, in return for the protection they receive from and within its empire: while, being permitted to act and trade (out of their own jurisdiction) within and under the protection of this empire, they conform to its laws and acts of trade: while they submit to pay every tax, which the will of the supreme legislature (not interfering with *the free-will* of the internal colonial government) lays on all property being within, or passing through, its jurisdiction, and under the protection of its empire: while those communities remain in that relation, under which they were settled, and are established, as British colonies having within themselves political freedom — these colonies have a right to be governed within this jurisdiction by their own laws, made by their own internal will; and to give and grant their own money, in those subsidies which are of goodwill, to all the intents, extents, and purposes of a free government. — So long as they are, and act as legally and constitutionally established — it would be against the law of nature, of nations, of our own constitution, if even the omnipotence of parliament itself was to interfere to the obstructing or superceding their freedom. The Supreme Governor of the world, whose absolute power goes over all his works, breaks not in upon
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the free-will of man ; He leaves him sovereign and absolute in the internal government of his own human system. This external part of the mixed colonial government, necessary to the union of the empire, to the vitality of the state, and to the efficiency of its government, lies in the first principles of right, as founded in the nature and end of that government, by which an empire so constituted, is organized.—It is necessary to the safety of the empire, that such a power should, like the palladium, be lodged in the most secret and sacred adyta of the state. Nothing but extreme necessity, *nè quid detrimenti capiat respublica*, should as in the last resource call this forth — as the dictatorial, or extraordinary exertion of the censorial powers were called forth :—an ordinary exertion of these powers of external government would have been tyranny ; they were not, therefore, lodged in the supreme magistrate, but resided in the majesty of the people. Although this similar censorial or dictatorial power does, in the theory of our constitution, *in the intendment and remembrance of the law* (as above explained) go to all cases whatsoever : yet if ever it should be exerted, *as an ordinary power*, except in that extreme necessity, where alone it could prevent a dismembering of the state, a subversion of government, or a total dissolution of the

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the community of the empire, it would be in like manner tyranny. It is necessary that some such *remedial power* should reside somewhere in the empire. In an empire, having a constitution like ours, it can reside nowhere but in parliament. As in the Roman state, the political liberty of the government was safe, in that these powers could not be exercised, but *jussu populi*: so is it the best safety, and security, that the liberties of America can have, that this power is not lodged in the crown, but resides in parliament alone.

This power breaks not in upon the freedom of the Colonists; interferes not with, nor obstructs the political liberty of the Colonies: Because it can act only where and when all such are already broken in upon, or dissolved; or where, as remedial, it may prevent such subversion of rights, and such dissolution of government.—This right, therefore, infringing no rights, liberties, or franchises of the individual, and not interfering with the freedom of the constitution of the Colonies, while such remain fixed in, and actuated by, their fundamental principles—but on the other hand, necessary to † the supreme superintending legislature of

† Boston Letters, as before.

the whole empire—is, to the utmost extent and intent of the claims as stated by the Colonies, consistent with the fundamental rights of nature and the constitution, and leaves the legislature of the Colonies, to express it in the words of their own claim, “ * *as perfectly free as a subordination will admit.*”

If *this line of colonial government*, thus found just and safe in *Theory*, should, when applied to the actual state of the constitution of the Colonies, prove conformable to *Fact* as established on right, This may, This is the only one that can become A LINE OF PACIFICATION. We will then try it by fact.

It is in subordination to a mixed impetrium of *colonial government*, thus bounded and limited in the process of its own operations, and by its own acts, that our Colonies (considered as British settlements of British subjects) † do carry with them, wherever they go, under his Majesty’s protection, *the laws of the land*; namely, the common law, and all statutes confirmatory of it; whereby they “ ‡ have, hold and enjoy all liberties “ and immunities of free and natural subjects, to all intents, constructions, and

* Boston Letters, as before.

† Pratt and York.

‡ General words in all the charters.

“ purposes

“ purposes whatsoever, as if they and every
 “ of them were born within the realm ;”
 and they are bound by the like allegiance
 as every other subject of the realm is. Hence
 it is, as the Colonists themselves express it,
 that they have a right to a “ * full enjoyment
 “ of the rights of the constitution upon which
 “ government itself is formed, and by which
 “ sovereignty and allegiance are ascertained ;
 “ that is, as full an enjoyment, as is con-
 “ sistent with a subordinate government,
 “ and a † subordinate legislation.”

Hence, therefore, it is, that all statutes
 touching the right of the succession, and
 parliamentary settlement of the crown, with
 the statutes of treason relating thereto, do,
 from the very nature of the subordination
 and allegiance above admitted, *extend to all
 British Colonies and plantations.*

From the rights of the Colonists, and
 from the constitutions of the Colonies, as
 above explained, it is that all statutes regu-
 lating or limiting the general powers and
 authority of the crown, and the exercise of
 the jurisdiction thereof ; all statutes, decla-
 ratory of the rights and liberty of the sub-
 ject ; do extend to all British subjects in the
 Plantations or Colonies, as of common right,

* Boston Letters, p. 13.

† P. 47, 48.

and as if they and every of them were born within the realm. Hence it is, that the rights of the subject as declared in the petition of rights; the limitation of the prerogative by the act for abolishing the Star-chamber, and for regulating the Privy Council; the Habeas Corpus act; and the Bill of Rights; do of common right extend to and are in force within said Colonies and Plantations. Some persons, reasoning from the precedent of Ireland, doubt the extension of the Habeas Corpus act to the Colonies.—But conceiving it to be, as I do, declaratory of a common law right, and providing for the full and efficient exercise of that, upon the principles above laid down—I have not hesitated to say it does extend to the Colonies. This proposition must be here understood to mean all statutes respecting the general relation between the crown and subject; not such as respect any particular or *peculiar establishment of the realm* of England: as for instance, by the 13th and 14th of Car. II. cap. 2, the supreme military power is declared to be in general, without limitation, in his Majesty; to have always been of right annexed to the office of King of England, throughout all his Majesty's realms and dominions: yet the enacting clause, which respects only the peculiar establishment of the militia of England, extends *to the realm of England only*. The supreme military power
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of the crown in all other his Majesty's realms and dominions stands, as to this statute, on the basis of its general power, unlimited. The several legislatures, however, of his Majesty's kingdom of Ireland, of his dominions of Virginia, and of the several Colonies and Plantations in America, have, by laws of their own (operating within the precincts of their jurisdictions, to which the King has given his consent) limited the powers of it, and regulated the exercise of it.

Statutes and customs which respect only the special and local circumstances of the realm, do not extend to and operate within the said Colonies and plantations, where no such special and local circumstances are found. Thus the ecclesiastical canon law, and all statutes respecting tythes; the laws respecting courts baron and copyholds; the game acts; statutes respecting the poor, and settlements; and all other laws and regulations, having special reference to peculiar and local circumstances, and establishments within the realm, do not extend to, and operate within these settlements, *in partibus exteris*, where no such circumstances or establishments exist.

It is a consequence, on the other hand, of the supremacy of the mother country, that all statutes enacted since the establishment of Colonies and plantations, do extend

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to and operate within such Colonies and plantations as are specially named as included in such statutes, or generally included by the provisions of such statutes being declared to extend to all his Majesty's dominions, that now are or hereafter shall be. But then, from the very nature of the supremacy of a free constitution, from the essential nature of the political liberty of the constitutions of the Colonies, this operation has its limits. In like manner, as the Supreme Being, in the moment that he creates a free-agent, does in that moment, and in that instance, necessarily create limits to his own absolute omnipotence, which *cannot act as an efficient on this free-agency*: So does the constitution of Great Britain, actuated by the King, in the moment that it creates communities, *having political liberty*, limit and bound its own supremacy; which, though in right it goes over the whole empire, cannot, in fact, in the ordinary exercise of it, do any act, within the jurisdictions of the Colonies, which supercedes or destroys that political liberty which it has created; until these communities have, by some act of theirs, broken the order of the empire, and exceeded the bounds of their proper constitutions.

No statutes made in the British parlia-
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ment, since the establishment of the said Colonies and plantations, except as above described, do extend to, and operate within them.

Upon the matters of fact, right, and law, as above stated, it is that the British subjects *thus settled in partibus exteris*, without the realm, so long as they are excluded from an intire union with the realm, as parts participant and integrant of the intire community, have a right to have, as they have, and to be governed by, as they are, *a distinct intire civil government*, having and exercising, within the precincts of its own jurisdiction, sovereign authority of the like powers, pre-eminences, and jurisdictions (conformable to the like rights, privileges, immunities, franchises, and civil liberties) as are to be found and are established in the British government, respecting the British subjects within the realm; holding, using, exercising, and enjoying the same in subordination to the supreme sovereign power of the empire of Great Britain.

Some of the Colonies conceiving, or being willing to conceive, the *summum imperium*, or sovereignty of this *intire government* to be a sovereignty which ought to be independent in its external relations to the general empire of the supreme state—say, that the officers and ministers, which actuate the powers of
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the crown, and of its magistracy, are *the immediate servants of the community*, in which they hold these offices, and as such ought to be dependent on the will of that community alone for their support and maintenance; “* that the community *whom these magistrates and civil officers serve*, should be the assessors of their pay.”— Having fortified themselves in this conclusion, they go on to state, as matter of grievance, that the rights of their civil government are superceded by the crown's paying their governors, judges, sheriffs, and other civil officers, independent of the grants of the people; on whom, as they say, (in a manner similar as the crown does on parliament) these officers ought to depend. Having got thus far in their reasoning, their representatives in assembly met, proceed to action, and have, by a process equally explicable as maintainable, brought forward and exhibited articles of impeachment, before the council-board, (as a supreme and *dernier resort* of judicature) against some of these officers as guilty of corrupt practices and high misdemeanours (by a species of treason against the state) in receiving pay and support from the crown. The leaders of these reasonings and of these measures

* Boston Votes.

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forget,

forget, in the fanaticism of their zeal, that these officers, ministers, and magistrates derive their appointment mediately or immediately from the crown—That the commissions of these officers issue primarily from the power of the crown—That they are the *servants, not of the community, in which they act, but of the crown*, by which the internal government of the Colonies is administered—That it is of the essence of colonial government that they should be so—and that therefore the position which says, that they should be paid by those exclusively whom they serve, will go further in a direct contrary direction, than these reasoners wish. What is true of the government of a sovereign independent state, cannot, on the very reason of that truth, be true of the colonial government of a subordinate community. In the first part of this book, I had stated the matter of this contest, so far as it stood on the ground of expediency: What I now state goes to an assumed ground of right, for which, in the nature and essence of the constitution of a Colony, there cannot be any possible foundation. That the magistracy, the offices, the judicatories should have all, and the like powers, as they have in the mother state, is *of the essence of political freedom*; but if the magistrates, the officers, and judges are detached from their dependence

pendence on the crown, and put into a state of absolute dependence on the people of the Colony, *where is that subordination of government, which is also of the essence of a Colony?* Such Colony, claiming only *in right*, political internal freedom of government, would acquire, *in fact*, national or independent government.

The support of the establishment of the government of the Colonies, and the pay of all the civil officers therein, hath hitherto, in general, been suffered by the crown to depend upon the grants of the people; the crown supposing and requiring, that it be granted in a manner similar to that by which the King himself depends for his support on parliament. This is the true spirit of colonial government, admitting the utmost perfect enjoyment of political freedom, exactly as it is held and enjoyed within the constitution of the mother state—And thus, I think, it should be held and enjoyed, *as far as it is consistent with a subordination to the supreme government.* But the Colonies, who reason and act as above stated, *have here passed that line, which can be the only line of peace and right between Great Britain and her Colonies.* The attempt to detach these officers and magistrates of the crown from their dependence on the King,

who is to actuate the supreme powers of the crown; the attempt to render these officers and magistrates absolutely dependent on the *temporary will* of the people in their legislature—goes directly to the subversion of *colonial*, and to the establishment of *national or independent* government.

From these principles I venture to affirm, that, if there be any spirit of pacification yet left, those Colonies who have attempted these encroachments beyond the line of their rights, must retreat back again within their line. And if then (which is all that the government of the mother country hath hitherto required) the Colonies will make their grants for the support of government *by a permanent revenue*, given in such form as to support the officers and magistrates thereof in a state of independence, and free from all undue influence, (as Jamaica has done, and found no evil in it) I think the crown would, I think in the spirit of colonial government it should, abstain from making grants to these officers thus already adequately provided for. And I think it is a fair conclusion from the theorem above stated, that (this contest once *thus* settled so as to insure the subordination of the colonial government) these officers should be dependent on the grants of the people, *mutatis*

tatis

tatis mutandis, just as the crown and its officers are on the parliament. In fine, this is, *de facto*, the *old standing* on which the crown originally put them. This latter mode, by which the crown undertakes the support and maintenance of its own officers, was a measure merely defensive, in order to maintain its constitutional authority over its own officers, actuating its own powers.—The Colonies have been repeatedly cautioned of this, in being told that they would drive the crown into the necessity of this measure—unless they would support their governments, and the officers thereof in a state of freedom from all undue influence—and it is now in their power to put an end to this measure, whenever they shall please so to do.

As I have here explained, under the theorem above stated, an aberration from the *true line of colonial government*, on the popular side, which, at this moment, is in operation towards mischief; I do not think it would be amiss, to point out another on the side of the crown, which may hereafter lead to more important danger. This case likewise falls under the same theorem.

It hath always appeared to me, that very great objections, grounded in law and policy, do arise against those grants of the

power of government, which are annexed to the grants of great property in the Proprietary governments. These grants unite in the proprietor, a predominating power which the crown itself no longer enjoys. They annex the influence of an overbalance of property, in a private subject, to the powers of the crown. This governing proprietor becomes thus both sovereign and landlord: and has as such, a power of a magnitude which is dangerous to the state, and oppressive to the subject. By trusting the powers of the crown in such a Landgrave, the necessary distribution of the powers of government amongst the community, and the perfect and adequate exercise thereof, is, in a way inconsistent with the rights of British government, in part intercepted.

By substituting this Landgrave as the sovereign, the people are in their actions and affections cut off from that direct union and communication with the crown, which the true spirit of constitutional allegiance always cherishes and keeps alive.

This Landgrave either by the influence of the balance of his property, may create a leading too great even for the crown itself to oppose. Or, while the honour and dignity of the crown is committed in every dispute, which

which the landlord has with his tenants; while the interest of the supreme state becomes subordinate to the interest of the landlord's property, the government may become odious. Those disputes which render the people discontented with government in the proprietor, tend to alienate their affections from the crown. For various reasons, and on various accounts, the people do not find that inward security, and external protection, under the administration of a proprietary government, which they think the rights of the British constitution hold out. They do, therefore, incline to stretch their duty nicely towards such.

There were many such governments at the first settlement of the Colonies*—"all
 "were made unhappy by them, and found
 "no relief but in recurring finally to the
 "immediate government of the crown. Pennsylvania and Maryland are the only two
 "of the kind remaining;" and Pennsylvania did at length prefer an humble petition to the King, praying his Majesty to take that province under his immediate protection and government. Thus much, thinking the rights of the crown, the liberties of the people, and the situation of affairs in Pennsylvania, 1764.

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ple, and the welfare of the whole empire deeply interested, I could not but say:—I enter not into the subject in particular; that is not here necessary.

From the principles of colonial government as above stated, both on fact as well as in right, it follows—That the freeholders, within the precincts of these jurisdictions, have, as of right they ought to have, a share in the power of making those laws of their internal government, which they are to be governed by. This power derives from a right which the community, as a free-agent of political liberty, has to the use of its own will, so long as it is separated from all communion and participation in the supreme will of the mother state. They have, therefore, both in fact and right, a power of sending their representatives, or creating their attornies to act for them, and to consent for them in matters of legislation. These representatives, when met in general assembly, have, together with the crown, a right to perform and do all the like acts, respecting matters, rights, and persons, within the precincts of their jurisdiction, as the parliament hath respecting the realm and British dominions. This legislative is * “as

* Letters of the assembly of the Massachusetts province, p. 47.

“ perfectly

perfectly free, as a subordination will admit. If it is the constitution of the British empire, that these distinct external communities are to have no communion or participation in the will of the governing community *—they must have *internal freedom of will*.

* Sir Francis Bernard in his *Principles of Law and Polity*, lays down synthetically theorems, the very reverse of these. He says, prop. 14,—“That legislation is not necessary to an external and dependent government, jurisdiction is necessary and essential to it. And therefore, that

“Prop. 15. A separate legislation is not an absolute right of British subjects, residing out of the seat of empire; it may or may not be allowed, and has or has not been granted, according to the circumstances of the community.”—I must think, following the deductions of my own *analysis*, that if a community of British subjects has a right to political freedom, and so resides out of the seat of empire, as to have no participation of will with it; the consequence is necessary, That it must have an *internal freedom of will*. If, on the other hand, the circumstances of the dependance of the community are such, that it is to be governed by will, *ab extra*, I am so far from conceiving how internal jurisdiction, any more than legislation, becomes necessary and essential; that I think it is impossible to communicate it to, or that it can exist in, such a community. The community is from this its nature *passive*, and the jurisdiction of empire must act upon it, *ab extra*, as an *efficient*.

While the circumstances of a community are such, either from any natural incapacity in its infancy, or from any political incapacity, by its holding principles incompatible with the empire of the mother country, or principles that refer to a foreign jurisdiction—there such

Colonies

of will; a representative legislature is the only form, in which the will of such a community of British subjects can be formed, so as to be the will of that entire society, and free. The freedom of this will stands, in its subordination to that of the supreme state, exactly in the same predicament, as

Colonies cannot be trusted with their own internal will. They remain therefore under pupillage or regency, governed *ab extra*—as to the jurisdiction as well as will.

Such have been the actual state of many of our Colonies in their first establishment, and of others which we have acquired by conquest—wherein the constituents have been Roman Catholics. Such Colonies have been governed by external government, by a governor, a council, judges, and laws made and imposed *ab extra*. The necessity of this species of provincial government, under such circumstances of infancy or incapacity, was, in my time, so clearly understood and so universally acknowledged, even by the British Colonies themselves, that when the commissioners of the Colonies, met in congress at Albany in 1754, unanimously adopted a plan of union*, as proposed by Benjamin Franklin, Esquire, the establishment of this external or provincial government, over such new settlements as should be made by the government of this union, was the mode of government fixed for them. A governor general named by the crown, together with a council chosen by the Colonies (in which choice these new settlements had no voice) were, as a government external to them, and to “make laws for regulating and governing such new settlements.” This is rather a higher tone of external or provincial government, than even the government which at present rules in Canada: for in the government of Canada the council are of, and inhabitants in, the community thus governed.

* Vide Appendix, No. IV.

the free-will of the human system does in respect of the supreme power of God himself. In the moment that the Divine Will determined to create the human system having free-will—in that moment, and in that instance (as I said before) he gave bounds and limits to his own will.—Infinite power cannot do acts which imply a contradiction: It cannot create a free-agent, and then act towards that agent as not being free.—The moment that the spirit of the British government determined that the Colonies were separate, distinct, external communities, not having, or capable of having, communion and participation in the will of the supreme state—and yet to be politically free, internal freedom of will, within such communities, became necessary, and was created.—In the moment, and in the instance, in which such was created—the supreme government gave bounds and limits to its own will, excluded from operating within the precincts of the community thus become free.—Although this supreme will, became thus bounded, it was not annihilated; it remained and does remain in a kind of *abeyance*, so long as these Colonies shall continue to act, and to exist, as what they are, free, but subordinate communities, and hath a right to interpose, and to act in all cases whatsoever as *preventive or remedial*, where the

the preservation of the empire, or the subordination of the Colonies, make such interposition necessary.

These communities, therefore, exactly as man doth in the moral freedom of his will, do and have always possessed (so understood) a perfect internal peculiar power of legislation, within the limits and precincts of their respective jurisdictions; and more especially, a peculiar proper right, by acts of such internal legislation, to give and grant their own immediate property, lying within their own jurisdiction, *in aids and subsidies which are of good will.*—This right, however, goes not to *services*, which are of *right*. The supreme government will of right claim the quit rents, the reserved share of mines and royalties, and every other branch of revenue which comes under the description of services reserved.

“ All the inhabitants of the kingdom, (says Mr. Bacon*) held their estates under a *general service*, which by common right they were bound to perform, in time of danger, to join in defence of their country. This is the common fealty all men owe, and which, if refused, renders

* On Government, Part I. Chap. 54.

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“the party guilty of treason against his country, and his estate under the penalty of forfeiture.” Although therefore aids and subsidies are of good will †; yet, if upon requisition made to the Colonies for such, in support of the empire, and of the government of their respective communities, such are refused either by the whole, or by any particular colony; that refusal, so far as it goes to a renouncing the service which it owes to the supreme state—so far as it withdraws from under the subordination to the general interest—so far as it goes to any claim of exemption from the common burthens of the empire, does, from the very nature of the Being of such communities, justify the exertion of external provincial government; which otherwise remains suspended, as I said before, in a species of abeyance.

This peculiar right of *internal legislature*, cannot, however, pass the bounds of the

† Since writing the opinion above, I read in the instructions given by the provincial delegates to their assembly, the following declaration.—“We solemnly declare, that if on such occasions, We, or our posterity shall refuse, neglect, or decline to contribute, it will be a mean and manifest violation of a plain duty, and a weak and wicked desertion of the true interests of this province; which ever have been, and must be bound up in the prosperity of the mother country.”

jurisdiction

jurisdiction of the community—it is not exclusive of those acts of supreme external legislature, which both in regulation and taxation extends up to the very bounds of this peculiar jurisdiction.—This right of internal taxation cannot go, in any way, or on any pretence whatsoever, to an exclusion and exemption from all such *external taxes*, which the supreme government by imposts and port duties shall think fit and right to lay on all property passing (under its protection) the boundaries of its acting jurisdiction.—The Colonies never did, in form and as of right, till the year 1768, claim such exemption—they knew that in most, if not in all their charters, it was an *express stipulation* that they should pay such.—Notwithstanding the ingenuity of the distinction on which this novel claim is founded; namely, that *the Colonies ought not to be taxed by parliament, for the express purpose of raising a revenue*; they must know that the port duties, to which they always submitted, which they have always paid, and which were laid by parliament—*made part of the revenue of the customs, which were given and granted by the Commons of Great Britain to the crown, in support of its government and dignity.*

There is in the nature of the things themselves, in the rights of government, and in the liberties of the Colonies, an *essential difference*

difference between internal and external taxes, and between the power of imposing the one and the other, deriving from the actual distinction, as above stated, between *internal and external, national and provincial* government. 1. The conditions under which the Colonists did first quit the realm, and settle in America; and on which their powers of government are established; do expressly stipulate for the payment of subsidies, duties, and imposts, (understood as port duties) almost without variation, in the same words, throughout every charter: On the other hand, every charter does expressly or intentionally make a distinction between those, and such taxes as they are permitted and empowered to lay on their own estates, real and personal, *within the precincts and limits of their respective territories,* or on such transactions as shall pass within *their own jurisdiction.*

The charter of Virginia, after having directly fixed the right of payment of subsidies, imposts, and duties from the company to the crown—and having made a grant of the same to the company for twenty-one years—has these words, “that they shall be free from all *subsidies and customs* in Virginia for twenty-one years, and from all *taxes and impositions* for ever;” making not only an express distinction in the matter,

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ter, but in the *right*. It was in consequence of this, that the charters incorporating them, or erecting them into provinces, gave the internal governments a right of taxing themselves within their precincts.

The charter of Maryland, in all the grants therein made, makes an express saving of imposts, duties, and customs, to the King, and his heirs for ever; which the people of that province, by the express condition of their charter, are bound to pay.—Yet the same charter, making the distinction both in matter and right, between internal and external taxation, says, “We, our heirs and
“successors, shall at no time set and make,
“or cause to be set, any imposition, custom,
“or other taxation, rate, or contribution
“whatsoever, in and upon the dwellers and
“inhabitants of the aforesaid province, for
“their lands, goods, tenements, or chattels,
“WITHIN THE SAID PROVINCE.”

In the same manner, and almost in the same words, all the charters of incorporation and government (which acts are to be distinguished from the original grants of the lands and territories) make the same distinction—stipulating expressly for the payment of all *imposts, subsidies, and duties*, according to the law of merchants; but as to the lands, tenements,

tenements, and hereditaments, *within the precincts and jurisdiction*, leaving those exclusive, as objects of the taxation of the several legislatures which are respectively thereby established; with power to ordain and establish *all manner of laws*, to impose taxes, and to assess and levy money on the lands and hereditaments within their respective precincts.

2. As the liberty and power of *internal* legislation was both intentionally and expressly granted to the Colonies under this distinction, and so understood, “* *as far as the crown could or might grant* :” So the exercise and administration of government towards these people, hath been, for a century and a half, conducted *on this plan*; always imposing external or port duties; but never directly laying internal duties and taxes on the dwellers and inhabitants of those Colonies, for their lands, tenements, hereditaments, or chattels, or on their transactions within the precincts of the jurisdictions of their several territories.

The Colonies having been used to this distinction, by the course and practice of government, have, *in their reasoning*, marked

* Charter of Virginia.

an essential difference in the nature of the thing.

Whatever tax or duty is imposed on any property imported into their country, is indeed annexed to *that property*, but not upon them, either in their rights or persons, until they *choose*, by purchasing that property with the tax annexed to it, to annex that tax also to themselves. But this they used to consider as *an act of their own consent*.

Whatever tax is imposed on any property which, within the precincts of their jurisdictions, is immediately and intimately united to their persons and rights: such tax must be paid, *without any interposition of their own will*.

The first is *external*, and annexed or not, at their own will: the second is *internal*, and absolutely annexed to what is inseparable from them.

Marking this essential difference in the nature of the thing—whatever right they can be supposed to have of taxing themselves, even *although it were exclusive*, within the limits and precincts of their own jurisdictions; such right is limited by those very bounds, and cannot go beyond low water mark.

mark. The acting power of the empire of Great Britain comes up to this line—and hath, as I showed above, a right (not bounded by any of the internal rights of the Colonists or Colonies) to exercise such empire external to them, both in regulation and taxation, as all other states have and do exercise.

From the principles of Colonial Government above stated, as they are found established in right and true policy, it also follows, that all the executive offices, from the supreme civil magistrate, as locum-tenens of the King, down to that of constable and headborough, must *of right* be established with all and the like powers, neither more nor less than as defined by law and the constitution, as they are established in Great Britain; and all these offices are thus, *de facto*, so constituted in the Colonies.

From the principles above, it is of right derived, that the judicial offices and courts of justice, established within the precincts of the said communities, have all these jurisdictions and powers, “*as fully and amply, to all intents and purposes whatsoever, as*

* Law of New England, confirmed by the crown, October 22d, 1700.

"the courts of King's Bench, Common
 "Pleas, and Exchequer, within his Ma-
 "jesty's kingdom of England, have, and
 "ought to have, and are empowered to
 "give judgment, and to award execution
 "thereupon."

Hence also it is, that by the possession
 of the great seal of the province, delivered
 to his Majesty's governor, and by the exer-
 cise of the powers thereof—there is esta-
 blished, within the precincts of each respec-
 tive jurisdiction, all the same and like powers
 of Chancery (except where by charter spe-
 cially excluded) as his Majesty's Chancellor,
 within the kingdom of England, hath, and
 of right ought to have, by delivery of the
 great seal of England: and hence it is, that
 all the like rights, privileges, and powers
 follow the use, exercise, and application of
 the great seal of each Colony or Province,
 within the precincts aforesaid, as doth and
 ought of right to follow the use, exercise,
 and application of the great seal in England.

It is from the right of an establishment
 of *internal intire jurisdictions*, as aforesaid, to
 which the subject in the Colony is amenable
 in all his rights and actions, and through
 which his service and allegiance must be
 derived to the crown—and from which *no*

appeal

appeal lies, in criminal cases — that it hath been conceived, that the Colonist cannot be removed from the jurisdiction to which he is amenable, so as to be made amenable to any jurisdiction * *external and foreign* to his natural and *legal residency*; to which *such foreign jurisdiction* he may be thereby transported, and under which he may be brought to trial, and receive judgment, contrary to the rights and privileges of the subject, as declared by the spirit and intent, and expressly and specially by the sixteenth section of the Habeas Corpus act: And that if the person of any subject, within the said Colony, should be seized or detained by any power issuing from any Court, without the jurisdiction of the Colony where he had his *legal residency*, it would become the duty of the courts of justice, within such Colony, to issue the writ of Habeas Corpus. This is said of the execution of justice, in the ordinary course of it: But from the nature of the principles above led up to, this peculiar internal judicial jurisdiction, *cannot exclude* the exercise of the *sovereign remedial power* of the governing state as above described.

A doubt has been raised against this proposition, from the following right, *de facto*; viz. that the Chief Justice's warrant reaches any part of the British dominions; and that it is a jurisdiction *not foreign* in any part of them.

Although, for the same reason, that there were originally no laws in Rome made for the punishment of parricide; there are no laws in being, or as yet made, whereby the supreme power of Great Britain may guard itself against such treason and revolt, as it cannot get punished in the Colonies; namely, because such crimes were not in Rome, and are not as yet in the Colonies known, or conceived to exist: Yet if any such acts of treason and revolt should be committed in the Colonies, and such should be, at the same time, the general spirit of the Colonies, that justice could not be done thereupon—the supreme sovereign power cannot remain; nay, it cannot exist any longer, without its remedy; and therefore hath a right to such. When I say, there are not as yet any such laws in being, as can regularly take the subject from his internal jurisdiction, and bring him to Great Britain to be tried—I do so as I think that the old statute of Henry the Eighth, made for the trial of treasons committed out of the realm—is in like manner, as I have above described the supreme power of the mother state to be limited by the creation of these colonial intire jurisdictions, who have acts and laws (to which the crown hath consented) for the trial and punishment of treasons within themselves; and because I think, that the applying the

purview

purview of that statute, which was made to bring subjects of the realm, who had committed treason out of the realm (where there was no criminal jurisdiction to which they could be amenable) to trial within the realm, under that criminal jurisdiction, to which alone, by their legal resnancy and allegiance, they were amenable, does not stand with the case of a subject, not of the realm, whose legal resnancy is without the realm, and within another jurisdiction, and who is, by that resnancy, and by his allegiance, amenable to that jurisdiction, authorised to try and give judgment upon all capital offences whatsoever, without appeal: And because I do not think, that the court erected by act of parliament, in the 11th and 12th of William III. c. 7, for the trial of piracies, felonies, and robberies committed in or upon the sea, or in any haven, river, creek, or place, where the admiral has jurisdiction, does any way affect the case I stated. Nor does the fourteenth section of that act, (directing that the commissioners, of whom such court consists, may issue their warrant for the apprehending such pirates, &c. in order to their being tried in the Colonies, or sent into England,) any way supercede the jurisdictions of the courts in the Colonies and plantations, and authorise the taking such pirates as criminals, from those jurisdictions; because

because this statute respects *crimes* committed in such places only "where the admiral has jurisdiction," and *cases* to which the jurisdiction of those provincial courts *do not extend*.

From the rights explained by this line of Colonial Government to be established as above, it is derived—that in like manner as "the command and disposition of the militia, and of all forces by sea and land, and of all *forts* and places of strength, is, and by the laws of England ever was, the undoubted right of his Majesty, and his royal predecessors, *Kings and Queens of England*, within his Majesty's realms, and dominions;" in like manner as the supreme military power and command (so far as the constitution knows and will justify its establishment) is inseparably annexed to, and forms an essential part of, the office of supreme civil magistrate, the King: So in like manner, in all governments under the King, where the constituents are British subjects, and where the communities are British, *having political liberty*; the supreme military command, within the precincts of such jurisdictions, must be inseparably annexed, and is *de facto*, to the office of supreme civil magistrate, his Majesty's vice-regent, lieutenant, or locum-tenens, in what form soever established;

ed: So that the King cannot by any commission of regency, by any commission or charter of government, separate or withdraw the supreme command of the military, from the office of supreme civil magistrate, either by reserving this command in his own hands, to be exercised and executed, independent of the civil power, nor by granting a distinct commission to any military commander in chief, so to be exercised and executed—but more especially, not within such jurisdictions where such supreme military power (so far as the constitution knows, and will justify the same) is already granted and annexed to the office of supreme civil magistrate. Nay further, the supreme and sovereign power of the state, *while the Colonies remain and act as subordinate, and as what they are*, cannot establish any law martial, or military command, which may supercede and not be subject to the supreme civil magistrate, within the respective precincts of the jurisdictions of such Colonies, and plantations—Because, if it could, then (while openly, and according to the rights of the crown, and the liberties of British subjects, it appeared to establish a British constitution of political liberty) it would establish a military power and despotism—which implies a contradiction. This state of rights, however, which, while the empire is safe; while

while the Colonies remain in the due order of their subordination, and act as what they are; excludes all such superceding power; cannot bar that superintending sovereign power from exercising, in cases of extreme necessity, a dictatorial, or censorial and remedial power, which all states must have within them, *nequid detrimenti capiat respublica*, and that the union, vitality, and efficiency of the supreme empire may be preserved and maintained. By the very conditions under which the supreme sovereign power of Great Britain is bound to protect the Colonies from outward danger, and under which it is bound to preserve them united, and subordinate to the empire—it must necessarily have a right to exercise and exert a supreme military power; which goes over and supercedes all other, whenever the case which requires it, comes into existence.

The doctrines which derive from the analysis above made, tried also by applying them to the fact in the constitutions of the Colonies, do establish the empire of Great Britain as sovereign and supreme over the Colonies, *in the interdict and remembrance of law*, in all cases whatsoever; and in the actual exercise of it, in all cases which are necessary to its being, as such. They at the same time fix in the most perfect security, the *free-will absolute of the Colonies*,

Colonies, so far as it is consistent with a subordination. As they do not give up any of the rights of the supremacy of Great Britain; as they do not break down any of the barriers of the liberties of the Colonies: I will from them venture to define the empire of Great Britain to be, in jurisdiction and legislation, supreme over the Colonies, in all cases whatsoever, except where it is necessarily limited by its own power in the creation of external communities, having political freedom; and that the Colonies have of right, internal government, both in jurisdiction and legislation, perfectly free in all cases whatsoever, except in such as break that subordination, which Colonies of British subjects, settled on the lands of the mother country, owe to it, and to its government.

While THIS LINE of COLONIAL GOVERNMENT defines the precise relation which subsists in nature, and right, between Great Britain and her Colonies; I hope Great Britain will not disdain it, in that it does not give more power to its empire, than even God himself hath over the human system: I hope the Colonies will not revolt at it, in that it does not give them more liberty than that which the human system enjoys, in its subordination to the supreme Being. This line, not only in its general theory establishes the rights of the empire, and secures the liberties of the people; but

but in practice and in its application, (as hath been seen above) goes to all cases wherever it becomes necessary, without endangering those liberties; as it would imply a contradiction, whatever may be its power, that it should have a right to destroy the least of them, while the Colonies remain as what they actually are. This line, in theory, in practice, and in every application of it, gives the Colonies an intire internal jurisdiction, and perfect freedom of legislation, so long as they remain, *as free, so subordinate*, separate communities.

This hath been the line of the administration of the government of England, towards the Colonies, and of their obedience towards its supreme empire, for near a century and a half. There have been aberrations on both sides of it, from both parties; but there never was on our part an express departure from it, until when, in the year 1764, we exerted a right of exercising external government over the Colonies, by imposing internal taxes on them: nor on the part of the Colonies, until since the year 1768; they not only in doctrine, but by deeds, denied the right which Great Britain hath, of imposing external taxes, on property passing into, or coming out from their jurisdictions and precincts, by imposts, customs, and other

other port duties levied and paid on the boundary of its own jurisdiction; nor until, by asserting that the ministers and officers of the crown, administering the government of the Colonies, are the servants (exclusively so understood) of the Colonies, and should therefore be paid by them alone; until by actions in maintenance of these exclusive claims, their conduct went to the subversion of *colonial*, and to the erection of *national government* within their jurisdictions.

It will be "an infinitely more arduous" task, if it be possible, "to restore peace between us, than it hath been found to be, to draw *this line*; if in the spirit of our politics we do not Both sincerely, in good faith, and in perfect confidence return to it.

When Great Britain saw that she had exceeded in her power, and had advanced beyond this line; the good humour and honour of the nation, repressed back its step and returned to it.

The Colonies have now in their turn advanced beyond this line—when coming forth, without the precincts of their jurisdictions, they obstruct our national government in parts where we have a right to exercise it: when fixing in these parts, external to their communities,

communities, *posts of claim which they fortify against our rights*, even within our own jurisdiction—when they say that we have no right to lay external taxes—when they resist the execution of those acts of parliament, which should collect them on the boundaries of our acting jurisdiction—when they attempt, as above explained, to erect *national government* within their peculiar jurisdictions: The Colonies (I say) have in their turn exceeded, and

“At one slight bound, have overleap'd all bounds.”

Notwithstanding, therefore, the universal prevalence, which *fears, jealousies, and other feverish passions* have given to these opinions *: notwithstanding the present unanimity

* The case stated, in the course of the argument, goes only to the matter of right: But as there are other reasonings, as to the extent to which this right may be justly carried—it will not be amiss to observe here, by way of note, the line and effect of that reasoning.—They say, with some ground of justice, that where, and in every case, in which we exact, and enjoy, the *monopoly* of trade with the Colonies, as that goes to the deriving from their commerce every possible profit which can arise; the super-adding taxes to this utmost profit, is absurd and unjust. With whatever truth this may be said, it is not more absurd and unjust in the Colonies, than what has been constantly done in the East India trade, &c. in England. But if from reasons of expediency, and from a spirit of moderation, Great Britain should give up the exertion

nimity with which the Colonists, and Colonies in their collective meetings, make these claims of exemption as rights; I am sure, if ever time and season would give them opportunity of returning to their old affections; if they would refer this point to their own honour; if they are sincere in saying, "That all which they desire, is to be placed on the standing, on which they were originally put;" they also in their turn would fall back to this line, *as being that on which they originally stood.* This, if some strange combination of events does not give rise to new systems of things, is *the only safe line of peace*; here must the *first step of PACIFICATION* be fixed.—But if all temper is lost; if all that trust and confidence, with which men can meet in business, is destroyed; if the spirit of peace is flown;

exertion of its right, in all cases whatsoever; *wherein the monopoly operates*; are the Colonies aware how much more, and with how much more inconvenience to them, Great Britain might avail itself of a revenue, by laying duties on those articles, in which they are permitted a trade unrestricted by any monopoly? If Great Britain was to impose duties, to be paid at the ports of the Colonies, on the exportation of rice, corn, and all other commodities with which they are now permitted to trade with foreign nations and their colonies; the argument of the monopoly could not operate in bringing forward any right to oppose to this exertion: and I am sure they would not know how, in prudence towards their own interest, to avoid the payment of such duties.

this *old standing*, as they call it, can be no longer the basis of the establishment of the British empire, in its administration of the government of its Colonies. We must look for *some other line of pacification, on some other ground* — No other line of pacification remains, than either that the Colonies be admitted into the Parliament of Great Britain by a general *British Union*; or that they have a *Parliament of their own under an American Union*. There is no other part in the alternative, than that they be put either in the situation of Scotland, or in that of Ireland.

A *British Union* of all the British dominions, by admitting the American Colonies into parliament, has been now for near twenty years repeatedly recommended to this country, by those who know the circumstances of both countries, as they stood related to, and connected with each other. The first part of this work contains, a full explanation of the grounds and necessary procedures of this measure. When it was first proposed, within the period of the last war, it might have been easily, and would have been cheerfully carried into execution. Ten years ago it was not yet desperate—but the spirit of this country disdained the idea: and

and the government of it never will or can engage in any such measure, which the spirit of the people does not take the lead of and demand. *We wretched empirics who have entertained the idea, and have written about it, have been treated as Utopians.—This interesting and decisive crisis of the affairs of this country, wherein a British Union might have been formed, has been treated like Friar Bacon's brazen head in the puppet-show.—The nation, whom it concerned to watch it, slept while it pronounced—*Time is to come.*—*Time is.*—They are awakened now with the breaking up of the charm, and have only heard—*Time's past.* The Colonies now in their turn have learnt to renounce this union. To obviate even the offer of it, they previously reject it: they say *it is impracticable*, and will not hear of it. This symptom (a mortal one there) showed itself early in the Roman empire, when the provinces found it their interest, and therefore took the spirit to reject the communion

* See two letters at the end.
† Ipsa denique Julia [lex lata est] quâ lege civitas est locis & Latinis data. Qui fundi populi facti non essent, civitatem non haberent. In quo magna contentio Heraclitus, & Neapolitanorum fuit, cum magna pars in iis civitatibus sordis sui libertatem, civitati anteferebat.

Cicero orat. pro Balbo, § 1.

of this country disdained the idea: but the

of the city of Rome, even when offered to them; preferring a subordination, which they found could not be very strictly exacted of them, to the being united in all the rights, privileges, and pre-eminences of the city.

If our Colonies by any new-excited property of attraction amongst themselves, are drawing together in an *American Union*: If we find this American attraction to be *electrical*; having learnt how this is raised by friction, we should know that the application of force will the more encrease its power. *If this then be the case*, that being let alone, they will form an union; and that being agitated by opposition *from without*, they will the sooner, the closer, and the firmer coalesce; what remains for us to do, but just that very thing, which if Philip of Spain had done, the provinces of the Netherlands would not have fallen off from his government? If he had put his own government, in that spirit and temper of it which was practicable, *at the head of an union*, which he might have seen he could not prevent, *his lieutenant might have been at this day Stadtholder of the united provinces.*

It would, upon the whole of things, have been happy even for the provinces themselves, had their government taken at first

this monarchical form. The wise and temperate amongst them saw this; and when they separated from the Spanish government, they sought to put themselves under the English in this very form *. Had it been the spirit of the English policy, in queen Elizabeth's time, to have established her *lieutenant as a Stadtholder*; had it even been the temper of those whom she sent to command in these provinces, to have acted in that spirit and character; these provinces might have been at this day parts of the British dominions, under a stadtholder, lieutenant of the kings of England.

Such hath been invariably the course of human affairs, that, wherever a country hath been originally divided into a number of small free independent states, *the necessity of a common referee*, who hath power sufficient over all to carry into execution those regulations and remedies which are required by all, hath always obliged these several states to create some one such referee amongst themselves, or to call in one from without. If this establishment is formed on preconceived *modes of policy*, the government may be that of *laws*: If it be only dragged into existence by power and force, the establish-

Vide Appendix, N^o III.

ment must be, as it always has been, *the government of men*. Nor can the community arrive even at that wretched state of peace, founded in a deprivation of freedom, but through a series of the most depressing miseries, in the dreadful trial of war.

If Great Britain and her Colonies are come to that dreadful crisis, that they are no longer to remain on their old standing: If there cannot be a *British union*: may the Americans see and be convinced, that the safest and happiest form of an *American union*, is that * whereof a British Stadtholder, Lieutenant of the crown, may have the lead, command, and government, under such establishments as derive from preconceived

* Vide Appendix, N^o III. *Notæ breviores tangentes Statum & Gubernationem Provin. Unitarum sub auspiciis Eliz. Reginae, 1589.*

This paper gives a model in fact, that may explain what I suggest here only in theory: and does, at the same time, point out what may come in future events, if the present crisis is not wisely and firmly managed. I had intended to have added a commentary on these notes, applying them to the state of our provinces and Colonies; but the more I have read them, the more clearly I saw that such was unnecessary.

That the publick, whom it concerns, may also see, what were, in the year 1754, the sentiments of our Colonies, collected in an authentic manner, on this subject, I have also added a * plan proposed and unanimously agreed to in congress, and sent over to Great Britain.

* Appendix, No. IV.

modes

modes of policy, before it shall be driven on by force. And may Britain have the temper, the spirit, and the wisdom, *to take such lead!*

As to the forms of such establishment, it will be time enough to speak to those, when the spirit of policy shall call for them. — What concerns all, should be considered of all. I have here stated that alternative in which the politics of this kingdom, respecting America, must be engaged, if we quit the *old standing*. Yet as I have, in every thing that I have said in public, in every thing which I have written or done, laboured to set matters on *that ground*—and as I still hope (if God, for the great ends of his providence, has not decreed otherwise) that we may fall back again to it: I rest all my hopes and wishes for the welfare and existence of the British empire on that alone. The old boundaries are known, and are those of peace—any new ones must be set in blood.

I have also added a * plan proposed and unanimously selected to its contents, and sent over to Great Britain.

POSTSCRIPT.

As to the terms of their establishment, it will be time enough to speak to those.

SINCE I had written the foregoing, this I have received the instructions of the Provincial Deputies in Pennsylvania given to their Representatives: together with the instructions of the Deputies of the other Colonies, established respectively, as was given by the Continental Congress, in 1774, to the Colonies in Great Britain, in every thing.

The declared purpose of these instructions, and of this Essay, are the same as that of the foregoing treatise, namely, to trace the line between the rights of the mother country, and those of the Colonies; to the end, that they may attain some degree of certainty concerning their lives, liberties, and properties. || Harmony between Great Britain and those Colonies may be promoted, and established on a constitutional foundation: such, as that

POSTSCRIPT.

SINCE I had written the foregoing treatise, I have received the Instructions of the Provincial Deputies in Pensylvania given to their Representatives: together with the *argumentative part* of the draught of these instructions, published separately, as * *an Essay on the Constitutional Power of Great Britain over the Colonies in America.*

The declared purport of these Instructions, and of this Essay, are the same as that of the foregoing treatise; namely, “† the tracing
“ a line between the rights of the mother
“ country, and those of the Colonies;” to
the end, that they, “‡ attaining some de-
“ gree of certainty concerning their lives,
“ liberties, and properties,” “|| Harmony
“ between Great Britain and those Colonies
“ may be promoted, and established on a
“ constitutional foundation:” such, as that

* Printed in Philadelphia, and reprinted by J. Almon, London 1774.

† P. 33.

‡ Preface.

|| P. 24.

“ they

“ they and their posterity may for ever remain subordinate to, and dependent upon the parent state :” “ * Which submission, (they say) our reason approves, our affection dictates, our duty commands, and our interest enforces.” Under this idea, the Instructions and the Essay demand, from me at least, the most attentive examination. These professions coming from the whole body of a serious people, in so serious a crisis of affairs, deserve every attention that every man who wishes peace to the British empire can give them. The draughtsman of these papers has, in a former work, shewn himself to be so ingenious and acute a reasoner, so able a writer, and is so universally looked up to in America, as an honest and conscientious man, that every thing which he writes on this subject, deserves to be thoroughly and deliberately examined.

The line which is here laid down in the Instructions, and described in the argumentative part, in the Essay, runs a very different course from that which my analysis hath led me in, and I am sorry to see it proposed *under such a questionable form*, that, I fear, it is never likely to become A LINE OF PACIFICATION, as not being, I think,

drawn on constitutional ground; nor standing on the true "boundary." It appears to me to come forward *beyond* this boundary, not simply as a defence covering the rights and liberties of the Colonies, but erected as an *advanced post*, fortified against, what, I think, the true and constitutional sovereignty of the mother state. I shall therefore endeavour to state and examine it, both on its own principles, and by those which I have, by a careful analysis, been led up to.

The idea of this line has been formed under contemplation of some " * original contract" between Great Britain and the American Colonies, on reciprocal terms of sovereignty and subordination; which contract *actum habens transeuntem*, hath never been defined, never mutually understood, so as to be fixed; and which is, at length, by a total misunderstanding, come to an absolute misalliance: Which, therefore, according to this idea must be now *de novo* formed, by " † a mutual compact," on intirely new ground, suiting the present relation of the contracting parties, " not to be altered in future ‡ without mutual consent."

In order to have any ground whereon to draw this line, various preliminaries are re-

* P. 95.

† P. 25,

‡ P. 27.

quired

quired to be settled. *Great Britain must make sundry renunciations of powers said to be assumed beyond right: its legislature is required to repeal many of its acts, as inconsistent with the constitutional foundation; whereon the reasonings and the instructions of the provincial delegates determine that this line must stand.*

I shall state and examine these preliminaries, as contained in this present *ultimatum*, which is never to be “ * relinquished nor intermitted; “ † every modification and qualification of which is “ inadmissible.”

1. The first article requires a renunciation, on the part of Great Britain “ of all the powers under the statute of the 35th of Hen. VIII. c. 2. “ An act for the trial “ of treasons committed out of the King’s “ dominions.” It would be unworthy the importance of the present consideration, to cavil at the extent given in words to this requisition; the delegates can only mean, *so far as concerns the subject resent within the jurisdictions of the Colonies.*

Those who think there is a doubt (amongst whom I have stated myself to be one) whether

ther the purvue of this act, (made before there were Colonies, and having respect only to such situations, *out of his Majesty's dominions, where jurisdictions were not established for legal remedy, and execution of justice, in case of treasons so committed*) was ever meant to extend to any parts *within his Majesty's dominions*, where jurisdictions were erected for the trials of such; and from the judgment of which there lies no appeal in such cases; may think this requisition unnecessary. But if, couched under this demand, the Colonists expect, that Great Britain should renounce all means of *remedy* against treasons committed, while the governments and judicatories of the Colonies cannot, or do not operate against such overtacts, as go to the denying their dependence on, and subordination to, the mother country—they can be considered only as requiring the state of the mother country to renounce the powers and *right of self-preservation*; and as requiring it *at the moment in which* the supposed conduct of the Colonists puts the *regions of the Colonies* in that very predicament which was the ground of this statute: For if treasons are committed in the Colonies, and abetted, or at least not restrained, and punished by the authorities established there; that state of things must be considered as an absolute dissolution of their government,

government, so far as it derives from the crown, and they stand in the case to which the purvue of this act goes.

In the ordinary course of colonial government, and in ordinary cases, where and when the powers of the crown can act, and have legal remedy against treasons; it is surely of the true spirit of colonial government, that the subject resident in the Colonies should be tried by his peers, within their own internal jurisdictions, to which they are amenable, and from which there lies no appeal in criminal cases.

The next *renunciation* required of Great Britain is, (as there expressed) of all powers of *internal legislation*. Instead of objecting to the expression, I will take the intent of it: It means all power of *foreign legislation*, acting *from without*, on the *internal rights* of the community over which such legislation, *external* to that community, is exercised.

I cannot here add to what I have already written on this point, either in describing the difference between internal and external, provincial and national legislation; or in marking the precise boundary between the rights of government of Great Britain, and those

those of the Colonies. As I have defined and described *colonial government*, I have there shown, that in the *intendment* and *remembrance of law*, the power of parliament, as a *supreme censorial or remedial power*, must be supposed to have a right to go to all cases whatsoever; yet that in the ordinary exercise thereof, there must be of right "a line beyond which her authority cannot extend;" and that so long as the Colonies continue (as what they are) subordinate communities, having political liberty; this power must be bounded by those internal rights, which that internal political liberty requires, as essential to it. But if, when the Colonies talk of a "boundary," they go in their *intendment* to a claim of * "an exclusive right of internal legislation," which is to exclude the power of parliament in all cases whatsoever;—they forget "the old standing," on which they were by "original contract" first put; and on which they have always hitherto stood. In the room of *colonial*, aiming to erect a *national government* within their jurisdictions, they themselves bring forward the necessity of the exertion of *provincial*, or external government, on the part of the mother country.

The next *renunciation* required of Great Britain

Britain is, that of *all power of imposing taxes and duties, both internal and external.* Great Britain has repealed the act, by which it did exert that power of laying an internal tax: I believe the Colonies perfectly understand that that point is given up for ever: But if they cannot enjoy their victory without the triumph, they must wait until, conquered, we surrender at discretion. It is not of the temper, nor of the spirit of pacification, to require this open test of humiliation from us.—But even the open renunciation of the right of laying internal taxes, would not suffice—They pass the line of their jurisdiction, and advance upon us in our own empire; requiring of Great Britain a renunciation of a right to *impose, within its own jurisdiction, taxes and duties,* external to the jurisdiction of the Colonies. They, who will not, in the rigour of their jealousy, suffer Great Britain to conceive, that cases may arise in which it may have a right to call for aid, by imposing taxes within their *exclusive jurisdictions*; advance upon us with a declaration, That their rights go, even *within our jurisdiction, to the excluding* Great Britain from imposing taxes and duties on any property passing the bounds of its own jurisdiction, if such property passing out of their jurisdiction is, or going to pass into, is going to be, *their property.*—As I find no reasons

reasons either in the Instructions, or in the Essay, whereon this claim can be grounded; I have again carefully read over that very ingenious composition, *the Farmer's Letters*; and I do declare, I have not acuteness sufficient to find any ground, or any reason whereon the claim can be founded; if I could, as I wish sincerely to examine it, I would candidly and fairly state it. On the contrary, every reasoning which I can draw either from theory or practice; from the principles of the British constitution; from those of the establishments of the Colonies; or from acknowledged and allowed exertions of government; establishes the right which Great Britain has to lay port duties, and calls for and justifies the exertion of it. Nay further, the Colonies themselves have constantly exercised and exerted a right of *the same kind*, on their own boundaries, by an impost laid and collected on goods coming from without, and passing those boundaries. I cannot therefore but hope, that *this claim* is but *an out-post*, which they mean to maintain only in order to parly and treat for the main works—It stands within the *line of the acting* jurisdiction of Great Britain, and, unless they mean to render all pacification impracticable—they must “relinquish it.”

Great Britain has yet another *renunciation* to make.—It must renounce all power of regulating and restricting the trade of the Colonies, except on such principles, and under such limitations, as are laid down in the Instructions, and in the Essay*. “As to the power of regulating trade (say they) our opinion is, that it is legally vested in parliament, not as a *supreme legislature over the Colonies*, but as the *supreme legislature and representative of the parent state*, and the only judge between her and her children, in commercial interests, which the nature of the case, in the progress of their growth, admitted.” They submit to these restrictions, as imposed upon them by the *representative of a sovereign state* (acting in parts foreign to its jurisdiction of legislature) without reference had to the participation of their will, in a similar manner as the King acts in fœderal and foreign transactions †, without the consent of the nation; and as he did (for so great pains are taken in the Essay to state it) originally in matters of commerce. They had rather be supposed to submit to this sovereign, as a superior power, imposing unequal conditions on an inferior, than to allow the parliament of Great Britain to derive its right, of to act-

* P. 110.

† P. 113.

ing, from a supposition of its being a supreme legislature; which supposition might be construed to include their will. * Thus we maintain, that with regard to FOREIGN AFFAIRS, the parent original state is, 'the delegate or representative' of the intire dominions; 'the sovereign power *quoad hoc*, is vested in her. Her acts, *under this power*, 'irrevocably bind the whole nation.' But yet this power by no means implies a *supreme legislature*. — It does not infer supreme legislature over us, that the *limited* authority of King, Lords, and Commons, is used in *cloathing regulations of trade, with the form of law*. The Commons joining in the law is not material. The difference is only in the mode of assent: *theirs is express*; ours is *implied*, as the assent of the whole nation is in the preceding instances. They conceive the exercise of this power to be, *an act of state, not an act of parliament*; although it be exercised by *statutes made in parliament*—and although the consent of the Lords and Commons makes it such. — They consider this consent to be a mere matter of form, given indeed by the two branches of parliament *expressly*, but not material, any more than their consent,

which is implied. When they * concede
 “ that this power is legally vested in parlia-
 “ ment,” and submit to its over-rule, it is
 on this prudential consideration, That even
 “ † if these Colonies were sovereign states,
 “ they would in all probability be restricted
 “ to their present portion.” Under this
 idea of the right of parliament, they con-
 ceive themselves on one part, and Great Bri-
 tain on the other, to be two contracting par-
 ties, and themselves as bound *fœdere ine-*
quali; yet on as good terms as, in the present
progress of their growth, they could have
 obtained, were they independent sovereign
 states. The idea of such a federal com-
 pact may suit those, who have accustomed
 themselves to conceive of the Colonies as
States, having both external as well as inter-
 nal sovereign jurisdiction; that is, as *States*,
sui juris: But to those in whose minds the
 idea of Colonies arise, as being *not States*,
 but *communities within the state* of Great
 Britain; all these reasonings, and all the
 ground whereon they stand, vanish with the
 baseless vision. The parliament makes rules
 “ † by statutes,” which are *acts of parlia-*
ment, to regulate and restrict all kinds of
 commerce which is carried on within the
 dominions of the empire;—and also for the

* P. 117.

† P. 117.

‡ P. 125.

raising a revenue therefrom, in return for the protection which government gives to it. It may in some of these laws, as a matter of federal prudence, have respect to the *pacta et conventa*, in which it stands related to some foreign sovereign states: But even this consideration cannot operate either on its right or its power, with respect to communities included in, and being dependent subordinate parts of its empire. It acts in every case as supreme legislature (the *commune concilium regni*;) And the power which is conceded "to be legally vested in parliament," is vested in it *as such*, and must be obeyed *as such*. If the supposition be true, that its acts, as acts of state, operate over the Colonies, without reference had to their implied will, "which is not material," in matter of regulation and restriction of trade; it must on the same supposition operate to the raising a revenue therefrom—without that consent. However, let us describe the power by whatever theory we may; the fact is, as the Essay confesses*, "That this power of regulation is the only band that can hold us together: and it is formed on one of those original contracts which only can be a foundation of just authority." Parliament therefore cannot

make the renunciation required under this head, without risking the dissolution of the empire; which parliament itself cannot be justified in doing. A revision of the whole system of the laws of trade, and of the regulations and restrictions respecting the trade of the Colonies and Plantations, is necessary. I have in part endeavoured to explain this; and, if I had any hopes of the least attention being given, at this hour, to these matters, I would further endeavour to explain it. And I shall always think, that, whenever such revision shall be undertaken, every attention and deference ought to be paid by parliament to the representations of the Colonies, as a matter of justice as well as of prudence: for I have always thought they ought to be actually represented in that high court.

II. Great Britain having made renunciations of the several powers as above required: the *Parliament* also *must* repeal several of its *acts*; and first, those respecting the military establishment, quarters, &c. in America. I, who think that, both by the constitution and laws of the empire, the military is, and must be always, as the force of the community, subordinate to the supreme civil magistrate—to the King or such—and in the Colonies, to the Governor as his lieutenant,

tenant, or *locum-tenens*. I, who have always thought, and do still think, that no letter of a secretary of state, nor any executive power whatever, can alter this *fundamental constitution*; who know no law that gives a supreme command to any military commander, paramount to the supreme civil magistrate in the Colonies, who think that the governor and captain general of each province must have, as he hath, "the command of all forts and forces" within his jurisdiction; do not know what laws in this case are to be repealed. I, who have, almost singly and unsupported, endeavoured, both in and out of parliament, to bring forward regulations that should fix the practice according to law and the constitution, and who shall forever act and persevere in the same endeavours; must, on this occasion, on examination of, and in answer to the claims here made, declare, That where the defence of the whole empire against hostile attacks from without, or the preservation of it from subversion, and dissolution arising within, calls forth the supreme power; the King hath, of right ought to, and must necessarily, have a supreme military power which goes paramount over the whole, with every attendant power of *law martial*, that is necessary to the maintenance and efficiency of such. This is a *dictatorial* power lodged in the crown, to be exercised, (*si jussu populi*)

order to the authority of parliament, *ne quid detrimenti capiat res publica*. The defence of the empire, and the support of the state; to which *power* of *self preserving* and *protecting* *signature*, and is a trust reposed in the King. He must therefore have all powers necessary to the exercise of that trust. As to the laws for quartering and providing for the troops in their quarters, and on their march in America; they were (I have a right to say) conceived and framed with a special regard had to the *internal* legislation and jurisdiction of the Colonies. If there have been any alterations made, which depart from the original idea on which they were framed; it hath arisen from that, that the legislatures and jurisdictions of some of the Colonies have endeavoured to obstruct, instead of making regulations for the execution of, the public service.

Any requisition therefore of repeal, in such case, becomes a demand on Great Britain to lay down her arms, to surrender at discretion, to receive such terms as shall be dictated to her, and that in the moment that the Colonies are on the point of advancing with *their arms* in their hands, *like the perpetual* *Parliament*, it would be a *tyranny*. As

binds to a repeal of the establishment of the courts of admiralty. I, who have never approved the rigour of them, where not necessary, and have, where it was my duty so to do, given my opinion against such, must say, that while the conduct of the Colonists renders this every day *more and more necessary*; that very necessity, if nothing else would, justifies the measure, and renders it impossible for government (unless it means to decline all power of regulating and restricting the trade of the Colonies) to repeal those acts which establish those courts. If any future practicable measure can be found, (such as creating regulations which shall execute themselves, which I think there may be) then I should hope to see the rigour of these courts abated in many instances. But these are measures of peace, and not (I fear) of the present hour.

As to the power in parliament of altering, and even of dissolving, the constitutions and charters of government, whereon the Colonies have settled and been established, I have said, and explained how I think, according to the principles of colonial government, that, exerted and exercised in the ordinary course of government, it would rather become a matter of power, than of right—*like the perpetual Dictator, it would be a tyranny*

rainy. But then, from such principles to draw the conclusion, That there does not exist in the sovereign state, in the King, Lords, and Commons, assembled in parliament (as the *commune concilium regni*) a supreme censorial or remedial power of self-preservation, against such principles of revolt or dissolution as may arise in the Colonies— is directly incompatible with the idea of colonial government. Any repeal of any necessary acts of this power, can never be required, by any persons who do not mean, on the destruction of colonial to erect national independent government. Whether some of the acts of this nature were absolutely necessary, might have been a question, if the subsequent acts of some of the Colonies had not since put it out of all question.

The ground thus cleared, if, on these propositions, it is to be so cleared; and the mother country, and her Colonies, having thus settled the relation in which they are to stand and to treat—if it is to be so settled for the future; all that follows is peace,—and I hail the promised omen.

The propositions which hold out the settling a revenue in lieu of services; and the declaration, that the granting aids and subsidies, which although of good-will, is yet

so far due from the subject, that the withholding or refusing such, when required in aid and protection of the state, is a *violation of a plain duty*; these propositions, I say, are of the very spirit and essence of our constitution; and stand on the precedents which, from the earliest times, it hath itself acted upon in its progress to the restoration of its liberties.

The fixing *a certain for an uncertain service*, is of the spirit, and was the principal purport of the *Magna Charta*. The settling the mode of that service, *by a composition of a certain income*, paid to government in lieu of this service, hath been the constant line of negotiation and compact between the King and people of our state in the best of times.

This proposal, as it comes from the whole body of the people of Pennsylvania—and may come as a general proposition from the whole body of the people of America—should be met with the most favourable eye, and deserves the most serious consideration.

A certain income in lieu of certain services; and a fixed and permanent revenue in lieu of all port duties, must mean a fixed proportion. It would be absurd to suppose this to mean

a *determinate modus* (like that settled in lieu of tithes) settled now, in the first stages "of the progress of the growth" of the Colonies, as the rate or quota, which should be deemed their just proportion in all the succeeding relations of their proportion to the mother country, and amongst one another. This income, therefore, must be so laid, in fair and equitable proportion at present, that as the Colonies encrease, it may so encrease, as still always to hold the same proportion. If the taxes which shall be laid and appropriated by the Colonies to the raising this revenue, be laid according to the present mode observed throughout the Colonies in general, on estates real and personal, and on polls; together with a tonnage to be paid by those Colonies who have a maritime interest and shipping; such tax might be duly proportioned at the outset, and would hold the same proportion in all future stages of the increase, decrease, or stationary situation of each Colony. If a land tax (in which case the quit-rents ought to be given up) rated according to the real proportionate value of lands in each province, and in each district of each province, was laid as the ground of this revenue—this too would hold the same equitable proportion as it set out with. One very material branch of this certain income might arise, in the fairest of all proportions,

proportions, out of the interest of a *general loan* advanced in paper by government, as described in section 2d of the sixth chapter of the first part of this work. But I fear, although our government has never yet been able to see the benefit and advantage which might be derived from it to Great Britain; the Colonies see it too clearly, ever to adopt this *now*, unless they have the creation and management of it.

By these hints I do not mean to dictate or prescribe; I only throw them out as *theoretic queries* of what may be, from experimental knowledge, which I once had, of what might have been. But as I have been long removed from all connection of business with the Colonies, and so many changes in the affairs, interests and powers of them, have devolved in such rapid succession one upon another, I now doubt, where I once thought I knew. Of this point, however, I am certain, That if the rate and proportion of any revenue, which shall, on "*mutual compact*," be settled, *be not fixed so as of itself to follow all future relations* between Great Britain and the Colonies, under the like proportion; this settlement, instead of an union, will prove an unfailling and plentiful source of dissensions. So settled as to hold its proportion, it may prove the happy

happy source of an union that shall be indissoluble. This first step of peace, falling back to the old ground of the old standing, is actuated by a spirit "of * loyalty to their sovereign, of respect to the parent-state, and of affection to their native country." And the next, I mean *their acquiescence in our still retaining THE MONOPOLY of their labour and commerce*, derives (I will hope) from a temper of unfeigned moderation. — It breathes, I am sure, that spirit. — "† From the mother country ALONE (say these propositions) we shall continue to receive manufactures. "To her alone we shall continue to carry the vast multitude of enumerated articles of commerce; the exportation of which her policy has thought fit to confine to herself. *With such parts of the world only, as she hath appointed us to deal, we shall continue to deal; and such commodities only, as she hath permitted us to bring from thence, we shall continue to bring.*"

The next article, rightly grounded, and conducted with temper, and a spirit of equity—with a practical, yet scientific knowledge of commerce—may become the chief

* P. 20.

† P. 20.

corner-stone in this edifice of peace; I mean that article which proposes the settling the courses and the bounds of colonial commerce. I have already said so much on this head in general; and there remains so much to be said, *en detail*, whenever this matter shall be taken up, between Great Britain and her Colonies; that to speak further in general would be but tedious repetition: and to go into an inapplicable detail might hazard the doing more harm than good.

I shall here conclude this Postscript in the words, and with the sentiments of the instructions given by the provincial delegates of Pennsylvania to their representatives, by applying them to ourselves here at home:

“To us may it appear, at this alarming period, our duty to God, to our country, to ourselves, and to our posterity, to exert our utmost ability in promoting and establishing harmony between Great Britain and her Colonies, ON A CONSTITUTIONAL FOUNDATION!”

The next article, rightly grounded, and conducted with temper, and a spirit of equity—with a practical, yet scientific knowledge of commerce—may become the chief

...to the effect of peace and
that article which proposes the selling of
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generally, and there remains to much to be
said of the nature of the matter, that it
Colony, that to the further interest
would be but an empty question; and to go
into any other point might lead to the
doing more harm than good.

APPENDIX

Colony, that to the further interest
would be but an empty question; and to go
into any other point might lead to the
doing more harm than good.

I shall here only mention a few
words, and with the intention of the
Extract of a letter from the Hon. Secy
of George Grenville, to the Hon. Secy
of the Board, London, July 1773, in which
To us may it appear as if, claiming

I am very sensible of the honor you do
to me, both in this, and in the former
presented to the former edition of your
written upon the Administration of the
James, and am much obliged to you for
the expressions of your regard and good
union. You say, very truly, in the begin-
ning of your present Address, that our opi-
nions differed on several points; but we
agree intirely in our wishes, that the consti-
tutional powers of this kingdom, and the
fixed government of the laws may prevail.

APPENDIX.

N^o I.

*Extract of a Letter from the Right Hon.
George Grenville, to Governor Pownall.
Dated, Wotton, July 17th, 1768.*

I Am very sensible of the honour you do to me, both in this, and in the Address prefixed to the former editions of your treatise upon the Administration of the Colonies; and am much obliged to you for the expressions of your regard and good opinion. You say, very truly, in the beginning of your present Address, that our opinions differed on several points: but we agree intirely in our wishes, that the constitutional powers of this kingdom, and the fixed government of the laws may prevail,

and the rights of the people be established upon true political liberty.

As to the great question of our parliament's granting to America a competent number of representatives to sit in our House of Commons, you are no stranger to the declarations I repeatedly made in the House, at the time when the repeal of the stamp-act was agitated; That, if such an application should be properly made by the Colonies to parliament, in the same manner as those which were made from Chester and Durham, and probably from Wales, it would, in my opinion, be intitled to the most serious and favourable consideration. I continue still in the same sentiments; but *I am much afraid, that neither the people of Great Britain, nor those of America, are sufficiently apprized of the danger which threatens both, from the present state of things, to adopt a measure, to which both the one and the other seem* INDISPOSED. Some of the Colonies, in their address to the crown against some late acts of parliament, have, if I mistake not, expressly disdained it; and I do not think it has been kindly received in Great Britain, when it has been thrown out in parliament, or started in any pamphlet or printed paper. The fullest conviction of its necessity, and the hearty concurrence, both of the govern-
ment

ment and of the people, are indispensably necessary to set so great a machine in motion, as that of uniting all the outlying parts of the British dominions into one system. — For my own part, I shall wait the event with concern, and shall be ready to give any assistance I can, whenever I see any practicable road opened to our safety.

ment
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or started in any pamphlet or printed paper.
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it has been kindly received in Great Britain,
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at the time when the repeal of the stamp-

No. II.

*Letter from Benjamin Franklin, Esquire, to
Governor Shirley. Dated, Boston, Dec.
22d, 1754.*

S I R,

SINCE the conversation your Excellency was pleased to honour me with, on the subject of uniting the Colonies more intimately with Great Britain, by allowing them representatives in parliament, I have something further considered that matter, and am of opinion, that such an union would be very acceptable to the Colonies, provided they had a reasonable number of representatives allowed them; and that all the old acts of parliament, restraining the trade, or cramping the manufactures of the Colonies, be at the same time repealed; and the British subjects, on this side the water, put, in those respects, on the same footing with those in Great Britain, 'till the new parliament, *representing the whole*, shall think it for the interest of the whole to re-enact some or all of them.

It

It is not that I imagine so many representatives will be allowed the Colonies, as to have any great weight by their numbers; but I think there might be sufficient to occasion those laws to be better and more impartially considered; and perhaps to overcome the private interest of a petty corporation, or of any particular set of artificers or traders in England; who heretofore seem, in some instances, to have been more regarded than all the Colonies, or than was consistent with the general interest, or best national good. I think too, that the government of the Colonies by a parliament, in which they are fairly represented, would be vastly more agreeable to the people, than the method lately attempted to be introduced by royal instructions, as well as more agreeable to the nature of an English constitution, and to English liberty: And that such laws, as now seem to be hard on the Colonies (when judged by such a parliament for the best interest of the whole) would be more cheerfully submitted to, and more easily executed.

I should hope too, that by such an union, the people of Great Britain, and the people of the Colonies, would learn to consider themselves, not as belonging to different communities with different interests, but to

one community with one interest; which, I imagine, would contribute to strengthen the whole, and *greatly lessen the danger of future separations.*

It is, I suppose, agreed to be the general interest of any state, that its people be numerous and rich; men enow to fight in its defence, and enow to pay sufficient taxes to defray the charge: for these circumstances tend to the security of the state, and its protection from foreign powers: but it seems not of so much importance, whether the fighting be done by John or Thomas, or the tax paid by William or Charles. The iron manufacture employs and enriches the British subjects; but is it of any importance to the state, whether the manufacturers live at Birmingham, or Sheffield, or both, since they are still within its bounds, and their wealth and persons at its command? Could the Godwin sands be laid dry by banks, and lands equal to a large country thereby gained to England, and presently filled with English inhabitants; would it be right to deprive such inhabitants of the common privileges enjoyed by other Englishmen, the right of vending their produce in the same ports, or of making their own shoes, because a merchant or a shoemaker, living in the old land, might fancy it more
for

for his advantage to trade, or to make shoes for them? Would this be right, even if the land was gained at the expence of the state? and would it not seem less right, if the charge and labour of gaining the additional territory to Britain, had been borne by the settlers themselves? And would not the hardship appear yet greater, if the people of the *new country* should be allowed no representatives in the parliament enacting such impositions? Now I look on the Colonies as so many counties gained to Great Britain, and more advantageous to it, than if they had been gained out of the sea, around its coasts, and joined to its land: For being in different climates, they afford greater variety of produce, and materials for more manufactures; and being separated by the ocean, they encrease much more its shipping and seamen. And since they are all included in the British empire, (which has only extended itself by their means, and the strength and wealth of the parts, is the strength and wealth of the whole) what imports it to the general state, whether a merchant, a smith, or a hatter, grow rich in Old or in New England? If through increase of people, two smiths are wanted, for one employed before, why may not the new smith be allowed to live and thrive in the new country, as well as the old one in the old? In fine, why

should the countenance of the state be partially afforded to its people, unless it be most in favour of those who have most merit : and if there be any difference, those who have contributed to enlarge Britain's empire and commerce, encrease her strength, her wealth, and the numbers of her people, at the risque of their lives and private fortunes, in new and strange countries, methinks, ought rather to expect some preference.

With the greatest respect, and esteem, I have the honour to be,

Your Excellency's
obedient, and
most humble servant,

B. FRANKLIN.

To Governor Shirley.

should the countenance of the state be par-
tially afforded to its people, unless it be most
in favour of those who have most merit;
and if there be any difference, those who
have contributed to enlarge Britain's em-
pire.

*Notæ breviores tangentes statum & guber-
nationem provinciarum unitarum, sub
auspiciis Elizabethæ Reginae.*

THE seventeen provinces of the Lowe
countreys, which in times past were
under severall lords and princes, and so every
one of them governed by it self according
to the customes and rightes of the same,
being most commonlie in quarrell and
question with eache other, yea the provinces
in themselves, particularly betwene towne
and towne, which grew to such factions
whereout divisions followed, were at the
laste, by alliances, usurpations, conquests
and otherwise, brought at laste under one
lord and prince, and consequentlie gouvern-
ed by suche direction and course as the occa-
sions require.

And the said provinces, having bin thus
brought under the house of Bourgoingne,
and so continued from the time of the good
Ducke Phillip, untill that the present K.
Phillip (who, upon the endeavours, by his
ministers used, to bring in and establishe the
Spanish

Spanish inquisition and tyrannie, was forsaken and rejected by the said countreys) were governed still according to the use of the said house and court of Bourgoingne, which course of gouverment hath bin observed, notwithstanding the breach between the said king and countreis.

And altho' the generall states, as chief members of the said provinces, and in a sorte deputies of the people and comminaltie, *have used and continued general meetings*, from time to time, to take order for the preservation of the state of thes countreys; yet have they ever found request and needfull, that the state of this gouverment and authoritie therof should be committed to *some few in number, with a head or chief over them*; whertoo a man of calling was thought most convenient.

And, becaus they found none such among themselves, in respect of a kinde of equalitie that both in their state and other states hath ever been, and still is, between men of nobilitie and others equall in degree of calling, though in discent, parentage, living and otherwise different, which causeth contempt by the emulation and jélosie that accompanie greatnes, wherby they are *loathe to yeeld to each other*, and that the provinces, in like
fort

sort affected to themselves, did stand upon
 tearmes of prerogatives, privileges, &c. yea
 the particular townes within each province,
 wherby inconveniences did diverslie growe
 daily; the said provinces or states, to pro-
 vide against the same, and that their state
 might bee orderlie ruled, did, both before
 they all joyned and tooke the cause in hand
 against the said King, yea while they have
 bin united, and since they were severed,
 with the aforesaid emulation, jealousie, and
 other like defects in men, *caused ever seek*
some FORREIN PERSONAGE TO BEE THEIR
HEAD AND GOVERNOUR; wherof I will
 sommarelie touch the course. Holland and
 Zeeland in the first troubles,

Altho' they had the Prince of Orange, one
 of the wisest, sufficientest and most expere-
 mented persons in Europe, consydering all
 the qualities and rare partes were in him,
 sent to the Queen's Majestie, offering their
 state and all unto her; after the losse of Zi-
 ricksea, and that the States opposed against
 the Spaniards, the Archduke Matthias was
 sought and sent for; the Duke of Alençon
 succeeded; who being deceased, the King
 his brother was earnestly solicited to accept
 the countreys; which sute taking no place,
 they did again send unto her Majestie, and
 intreated so far as it pleased her Highnes to
 agree

agree unto a certain succour of men, and A CHIEF PERSONNAGE TO COMMAUND; who besides, with th' assistance of a counsell of state, is to deale for the gouverment of these United Provinces, according to the autoritie by certain points and articles especiallie sett downe in the treatie is appointed, and do in substance comprehend, tho not so particularly enlarged in woords, the plot of the course and gouverment aforementioned, used since the said 17 Provinces were reduced under one Prince, which was by a gou-vernour general, and a counsell of state; who, without partialitie or particuler respect of state, province, towne, or member of the same, proceeded and dealt for the good of the generall, either in time of warre or of peace, in all that concerned the wellfare of the said Provinces.

This waie of gouverment hath bin also observed and established by provision, during the times *that no forrein chief or gouvernour was agreed withall*, and abod in these parts, as may appeare by the instructions framed for the counsell of state from time to time, during the life of the late Prince of Orange, and *while his sonne Count Maurice was in place*, and succeeded his father.

Out of all which may bee inferred, and
doth

doth necessarily follow, that in all times authority and good gouvernement were the principall points to maintain this state; which to confirme the more, it is moſte evident, that, after the arrivall of the Righte Honourable the late deceased Earle of Leiceſter into theſe partes (tho' the treatie gave him ſufficient authority, yea more then hee had otherwiſe, as matters ſucceeded) the ſtates, to the end things mighte be well ordered, and only directed by a generall gouvernour, aſſiſted by the counſel of ſtate, made choiſe of his Lordſhip abſolutelie to the ſame, with commaundement to *all particulare governours,* and conſequently *to the Colleges or States of the Provinces,* and *all others,* to *reſpect and obey him,* and this to remove the difficulties, and inconveniencies afore touched.

How long the graunt and gift of this ſuperioritie laſted, and upon what occaſion there fell out alteration, were too long to recite; this ſufficing, that all men of ſtate and judgement may ſee, *that the popular gouvernement being ones in uſe, wherby matters ar directed to that libertie they beſt like of, yt is very hard afterwards to bring them under any other ſort of commaundement;* for finding in any parte their ſaid libertie, or rather that will reſtrained, they did labour by all meanes to reduce things to their owne purpoſe, the
 6 States

States General reserving, so much as in them is, a kind of superioritie, and so onely to seek to have their owne tournes farvid, and not to be ordered by that kinde of gouverment, that heretofore was used, and yet ought to bee used.

Since the resignation of the said E. of Leicester his gouverment, and that it hath pleased Her Majestie to appoint in his place the moſte Ho. the L. Willughbe as L. Generall, and *Lieutenant to her Majestie, wherunto the aforesaide States accepted him, with shew of great liking, and that thei would yeeld unto and use his Lordship with as much respect as the treatie required and appointed, they have framed a new forme of gouverment farr contrarie unto the meaning of the said treaty, and the method used in former times; seeking more thereby to winne time, attending some other accident, which they will interpret fortunate in their particular respect, more than from anie great good that they can looke for to happen to the cause in general.*

Their present state standeth thus for the mennes, for the men of warre, and for the gouverment, as followeth;

The Provinces among them do in a manner make account, that the contributions to the warres amount to the wonted somme of twentie thousand pounds a moneth, which is devided to be aunswerid by the respective Provinces, according to their quote or rate they are set at.

And of these contributions are paid the martiall men, which are devided upon eache province by repartition; wherein, according to the mennes that each province paieth, they contribute and paie monethly to their garrisons, and the other men that belong to their charge lieng in other places.

Also they do in like sorte paie their gouvernours, sergeant majors of townes, commissaries of musters vittales amunition, and other like officers; and reserve besides, for other provisions and charges, such money as by the partition and state of warres is sett downe.

These provinces, or rather the deputed states of the same, doo themselves, after 48 daies to the moneth, by their owne officers, paie the souldiers, and others standing on their repartition, reserving in their owne handes the other remaining monie of their quote, to bee paid upon the warrants of the
councill

councell of state; unto the which they will rest countable of their paiement made to the souldiers, but therin *their owne discretion and authoritie governes them, as also in paieng of the counsels warrants.*

The number of footemen, presently entertained and standing upon the provinces repartition, is sett downe 15667, and of horsmen neere 905; if the companies were complet, the paiement wherof amounteth for the footemen each moneth unto 119820 florins, and the horsemen to 16880 flo. and are for the present devided thus for the payements.

Holland	8818 footemen,	69086 florins.
Zeland	2910	22233
Utretcht	900	6600
Frise	2800	19933
Geldr.	226	1733
Overiss.	263	2000
Drenth.	150	1133
<hr/>		<hr/>

15667 119820

Holland	615 horsemen	12616 florins.
Twenth	150	2400
Brab	140	1783
<hr/>		<hr/>
905		16,800

There

There are yet the horsemen of the Count Mœurs, those of Wulf, and those of Schenk, being all verie strong troupes with certaine his foote companies, but have no certain paie as yet standing upon the repartition, but after a sort mony prested to them by those of Holland, and so is don to the annuan of Thiel for 300 men, and they of Gertrudenberg paie themselves.

Entertayments paid by the Province.

Holland	8121 florins.
Zeland	2192
Utrecht	1500
Frise	1735
Geldr.	459
Overiss.	306
Drenth.	17

15402 with 400 flor. in the
Rect. gual.

And yet both by the said calculation
Other extraordinarie charges as for am-
munition, vittails, shipping, and such
like.

Holland	30148
Zeland	7688
Frise	1800
Utrecht	1000
	<hr/>
	40636

Which paiements, accounting the par-
ticulars to a general, amount unto as in the
page following.

Holland	117073 flor.	3 souls,	4 d.
Zeland	32113	6	8
Utrecht	9100		
Frise	24468	6	8
Brab.	2113	6	8
Guel.	2193		
Overijs.	2306		
Dreuth.	1150	6	8
Twenth.	2400		
Fland.	300		
Upon rect. gual.	411		

Som. tot. 193658 10 sh.

And

And yt doth by the aforefaid calculation appeare, that the four contributing provinces do not paie their monethlie rate in the 200000 flo. and yet, unles it be Utrecht, the others are thought to paie it with a furplus.

And it is to bee confidered that, to fhorten the charges, there are no officers for the field in ordinary paie, onely the Marefchall General, the chief of the artillery, with a controuler, and a General des Viures, with a few ordinary officers and conductors.

Also they do receave certain extraordinary contributions, as upon salt, fope, &c. wherby they aunfwere at their willes and difcretion the extraordinarie charges that the counfell of ftate or themfelves do make.

The townes and places that muft bee provided with garrifons ar many, as by the note following maie appeare.

Count Meurs over Guelder, Utrecht, and Overissel,

And Count William of Nassau, over Friseland;

And each province besides hath his ordinarie meetings of certain counsels, which they terme the Deputed States, and do in that forme meet almost daily in their colladge; wherof the gouvernour, as chief, cometh in when he seeth cause, but hath but a voice; and there they consult of all matters *that concerne their private state, and that thereon dependeth.*

The souldiers, standing in their repartition, *they paie themselves, and by their owne warrants.*

If anie men must be sent unto anie province, must passe thorow it, or that anie be called thence and removed, *that cannot be don but by the gouverneur, and in his absence by the said deputed states of that province,* so that her Majesties lieutenant, and the council of state, must direct their letters to that end to the said gouvernour and deputies without anie authoritie to give their owne patents; neither may or can there any souldiers passe through any province, or en-

ter into anie towne, except they have the
private gouernours patent; so as the gene-
ral gouernor and counsell's authoritie is
thorowly much impaired; and, if they should
have anie enterprise or service in hand, ere
they can have anie men, they must make
the particular gouernours and deputed states
whence they should be had priue therunto,
and so the services are drawn in length, and
often neglected, discovered, and prevented;
the said deputies, being diuers times of son-
drie humours, if they list will suffer no man
to bee drawn forth, for making frivolous
exceptions.

In like sorte when, upon occasion of the
use of any mony for extraordinarie service,
the said gouernour general and counsell
shall make their warrant upon anie province,
it is in the choice of the same, whether they
will answer it; besides that they must
most commonlie acquaint them with the
cause of employment, and thus are all good
services hindred; so that this is one of the
greatest wrongs offered in respect of the
treatie, which appointed that the counsell
and gouernour general should have the dis-
position of the monie, for the preservation
of the countrey, by sea and land; and as
these payments bee made, which the states
are not ashamed to pay, the counsell hath
neither

K +

the

the disposing of it is a manner of dealing
as if the gouernour generall and counsell
were under age, and intutely, wherout
dry inconueniences growe amongst other
these, that either the men must still abide in
their garnisons, and so make no other but a
defensive warre, which in time will weary
them, hazard the losse of their townes one
after another, and consume both theirs and
her Majesties mennes and treasure, or els
drawing men unto anie service in field, to
raise the siege of a place, to make any enter-
prise or exploit, and that thertoo the men
must be had out of several provinces, the
paiements must consequentlie bee sent af-
ter, which is troublesome and chargeable;
the soldiers cannot, neither can be, orderlie
paid together, but by fits, so as ever there
is dout of disorders, as of late was sene in
the siege of Berghen, where the men of
Utrecht and Friseland were unpaid, and they
of Holland but slenderly.

Another thing is also to bee remembred,
that so long as their gouernments continew
in forme aforesaid, her Majesties lieutenant
and counsellors shall never be particularly
private of the mennes, the forces, the pla-
cing or displacing of men, the strength
and weaknes of places, the enemies prac-
tises or dealing, which the private provinces

neither yet shall understand anie perfectness
of the state, and the proceedings in matters
of the same; and when every private pro-
vise caseth for ytsell, disposeth of the mone-
y and men, &c. what needes there any other
council or gouernment?

In like sorte is to bee spoken of the Ad-
miral and admiralties, who receave and dis-
pose of all the meanes, make for the ship-
ping, discharge them, and handle all matters
belonging to that charge, and neither the
gouernour general, nor counsel, once made
privie therunto or respected, so as they know
not what cometh in of the convoies, the li-
cences, the prizes, or other advantages, pro-
ceeding by the sea, neither yet what strength
they are of, or can make, if neede were, to
defend these countreys, or assist her Majestie,
and what delays and differring is used by
these men, hath appeared by their slowness,
when the Spanishe armie came towards Eng-
land, and these countreis, their slacknes in
sending over the men and ships for the Por-
tugall voyage, with other like proceedings
in occasions dailie falling out.

The inconveniences, that have insfewed
by this aforesaid kinde of gouernment, and
that dailie yet may growe are divers, besides
inferred above.

In

In

In Holland there are divers divisions between those of the north and south parts, also the private townes, which in time will breede farther matter, and cannot be ended without the interposition of some speciall authorite.

The matters of Utrecht depend in fickle termes, and none can take them up and quiet them to the assuring of the state.

Thiel and Bonnuel are not yet reduced to perfect termes with Holland, neither yet with Gelderland, bring in difference under whom they shall resorte.

With the Count of Collemberg, who would hold the towne neuter, is some dispute, the state of the place being of importance.

The question with colonel Schinck remains yet unended.

Those of Overissel have some hartburning against those of Holland, for keeping of certain forts and strengthes in their province by their garrisons, with obeing or acknowledging those of Overissel.

The chief officers, captaines, and other martiall

martiall men grow weary, seeing they have no chiefs of acrhount and authoritie, and that they are tied to so many obediences by their oathes,

When in garison townes on the frontiers, any companies bee placed, and that they bee of severall provinces, the paiements fall out verie diffused; some paid in time, others staie longer, and others now and then not at all contented, which indaungereth the places, consumeth the magazines, maketh hartburnings and divisions,

In Freesland there remaineth still some controversie, and so in other places; and the ending of all these dependeth, by vertew of the treaty, upon the gouvernour general and the counsel of state, the which, if her Majistie please not to restore to the authoritie dew unto them, but suffer this aforesaid kinde of popular gouvernement to proceed, shee shal be sure to waste her treasure, to see her subjects daily spent in garison townes, without anie furdur experience of warres then that service will yeeld, to deminish the honor and reputation of the gouvernour, the officers, and nation; and at length have much adoo to recover her owne, when by this langueshing warre all will come at length to some uncertain successe; whereas otherwise,

wise, the aforesaid authoritie being established, the meanes and men might bee employed in service abroad, especially when the ennemy is thus quiet and in a traunce, not knowing what course to take, wherby would be gotten great advantage upon him in divers quarters, as in Brabant, Flanders, towards the Velen, the Twenth, the Drenth, the Ommelands, Groenighen, and other parts; wherby the inhabitants there would bee driven to abandon and forsake the places, or els yeald to this side, and forsake the ennemy; and besides might worke some division amongst the malcontents, who by report are distated of the Spaniards and Italians.

And if this proceed not by some meanes from her Majestie, these men will not stirr; for they account not so much of their neyhbours, as to help them, wishing rather the continuance of their troubles and misery, and themselves alone to keep all trade and traffique as they now enjoye; and thus a few to serve their private toursns, esteeme not, neither care for the generall,

Wherefore, seeing her Majestie hath in some sorte taken the cause of these afflicted countreys in hand, if she may please to continue, and to waite that aforesaid, with such benigne clemencie and gracious judgement, as

the

the same requires, to remove all the passed faults and errors, and set all in better order in time to come, unlesse her Highnes shall think good to enter furdur into the action, and take the souverainetie or perpetuall protection of these countries, in which all good people wishe and hartely desire; the best waie would be to deale roundlie and require the establishment of the gouvernour generall and the counsell of state in their autoritie, with such a gouvernement as the treatie requireth, and that her Highnes declare her interpretation thereof to bee according to that, which by the lieutenant and counsellors hath bin by writing exhibited unto the State Generall.

And to the end they may perceave her Majesties meaning is to maintaine the treatie in like sorte on her side, it shal be necessarie, before all, that the said L. General's autoritie, according to that apperteineth to his place, bee established, and order given that the points of the treatie, concerning his charge over her Majestie's forces, bee fulfilled, and consequently to begin, to take awaie all occasion of the states complaints, to have the companies made complete: to give order, that the musters may be made orderlie and with assistance of their commissaries: that the men may be duly paid,

so as they charge not the country with
 prefts: that the full disposing of the war-
 rants, the placing and displacing of the cap-
 taines, bee left and committed to the L. Ge-
 neral: that all captaines do keepe and abide
 by their companies, or els to quitt them, and
 suffer the L. Generall to place others, and
 lastlie; that no companies bee suffered to
 bee sold, nor obtained with favour, without
 just desert and worthie for hableness and
 experience of the charge; with other like
 faultes, which in reason ought to bee re-
 dressed and provided against.

And these states seing that her Majestie's
 order and direction is to have a better order
 and direction in all things established, will
 undoubtedlie frame themselves accordinglie;
 and then maie this state bee gouverned ac-
 cording to auncient order and custome, con-
 curring with the trew meaning of the trea-
 tie; the good frutes wherof will evidentlie
 appeare, assuring this state within yt self by
 the dew autoritie to bee exercised in their
 government; and assure yt more firme unto
 her Majestie by the good and mutuall corre-
 spondence to be used and entertained; and
 so shall at all times the force and proceed-
 ings of these united provinces bee known
 to her majestie; according to the which all
 things for the good and more securitie of
 her

her Highnes one state and countrey may bee directed.

It may likewise be added hereunto, that the autoritie of the lieutenant general and counsell of state, being established as above written, for the dew gouvernement of the provinces, the assemblies of the generall states will be lesse needfull; who in former times never medled further then with the granting of any contribution, to bee required by those that gouverned, and knew the need and necessite of the state; and now in their assemblies deale in all things both for warre and pollicie, taking upon them as absolute gouvernours and souverains, so that the counsell of state do not any thing of anie importance without the communicating of it with the said states; who then, though nothing belonging to their charge, take order and determine all to their pleasure; so that the counsell of state serve but for a cypher; and it were more fit and convenient that her Majesties lieutenant and counsellors should meet in their assemblies, where all is known and handled concerning the gouvernement of the provinces; then in the said counsell which hath but the name:

To enter into the particularities would bee too long, and I will conclude with the persons,

persons, whereof these general states of all the provinces are formed and consist at this present, of some 14 persons; amongst the which are some 3 or 4 gentlemen, the rest pensionaries and marchants, and whatsoever they saie the other yeeld therunto, and so keep and continew their course in gouverment, dispatching littel or nothing, if they of Holland come not; who have bin of late so buisied in their private meetings, that their deputies appear seldom or very litell; wherby all matters are handled at length and with delaie.

The rest that thereon dependeth, and of the humours of these general states, and what and how some provinces beare swaie above others, I leave to the report of such as have frequented these countreys, and are acquainted with the state and order therof, ending thus this brief sommarie discourse upon the state and gouverment, which I have set down in haste for want of sufficient time to doe yt more exactlie; the matter being trew, howsoever the course is observed in writing.

Hagh, twentieth eighth daie of

February, 1589.

To enter into the particularities would bee too long, and I will conclude with the persons,

N^o IV.

*Plan of an union of the several Colonies of Massachusetts Bay, New Hampshire, Connecticut, Rhode Island, New York, New Jerseys, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina, for their mutual defence and security, and for extending the British Settlements in North America; as proposed by * Benjamin Franklyn, Esq; and unanimously agreed by all the Commissioners of the several Colonies aforesaid, met, by order of the Crown, in Congress at Albany in July, 1754.*

IT is proposed that humble application be made for an act of parliament of Great Britain, by virtue of which one general government may be formed in America, including all the said Colonies; within and under which government each Colony may retain its present constitution, except in the particulars wherein a change may be directed by the said act, as hereafter follows.

President
general and
grand council,

That the said general government be administered by a president general, to be appointed and supported by the crown, and a

* N. B. Benjamin Franklyn was one of the Commissioners of Pennsylvania, and Mr. since Governor Hutchinson, for Massachusetts-Bay.

grand

grand council to be chosen by the representatives of the people of the several Colonies, met in their respective assemblies.

That within months after the passing of such act, the House of Representatives, in the several assemblies that happen to be sitting within that time, or that shall be specially for that purpose convened, may and shall choose members for the grand council, in the following proportion; that is to say,

Election of
members.

Massachusetts Bay	—	—	7
New Hampshire	—	—	2
Connecticut	—	—	5
Rhode Island	—	—	2
New York	—	—	4
New Jerseys	—	—	3
Pensylvania	—	—	6
Maryland	—	—	4
Virginia	—	—	7
North Carolina	—	—	4
South Carolina	—	—	4

48

Who shall meet, for the first time, at the city of Philadelphia in Pensylvania, being called by the president general, as soon as conveniently may be, after his appointment.

Place of first
meeting.

That there shall be a new election of

New elec-
tion.

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L

members

Members
allowance

members for the grand council every three years, and on the death or resignation of any member, his place shall be supplied by a new choice, at the next sitting of the assembly of the Colony he represented.

Proportion
of members
after first
three years.

That after the first three years, when the proportion of money arising out of each Colony, to the general treasury, can be known, the number of members to be chosen for each Colony shall, from time to time, in all ensuing elections, be regulated by that proportion, [yet so as that the number to be chosen by any one province, be not more than seven, nor less than two.]

Meetings of
grand council,
and call.

That the grand council shall meet once in every year, and oftener if occasion require, at such time and place as they shall adjourn to at the last preceding meeting, or as they shall be called to meet at, by the president general, on any emergency; who having first obtained in writing, the consent of seven of the members to such call, and sent due and timely notice to the whole.

Continu-
ance.

That the grand council have power to choose their speaker, and shall neither be dissolved, prorogued, nor continued sitting longer than six weeks at one time, without their own consent, or the special command of the crown.

That

That the members of the grand council shall be allowed for their service, ten shillings sterling *per diem*, during their sessions and journey to and from the place of meeting, twenty miles to be reckoned a day's journey.

Members allowance.

That the assent of the president general be requisite to all acts of the grand council, and that it be his office and duty to cause them to be carried into execution.

Assent of president general, and his duty.

That the president general, with the advice of the grand council, hold or direct all Indian treaties, in which the general interest or welfare of the Colonies may be concerned; and make peace or declare war with Indian nations. That they make such laws as they judge necessary, for regulating all Indian trade. That they make all purchases from Indians for the crown of lands now not within the bounds of particular Colonies, or that shall not be within their bounds, when some of them are reduced to more convenient dimensions.

Power of president general, and council.

Treaties of peace, and war.

Indian trade.

Indian purchases.

That they make new settlements on such purchases, by granting lands in the king's name, reserving a quit rent to the crown for the use of the general treasury.

New settlements.

Laws to govern them.

That they make laws for regulating and governing such new settlements, all the crown shall think fit to form them into particular governments.

Raise soldiers and equip vessels.

That they raise and pay soldiers, and build forts for the defence of any of the Colonies, and equip vessels of force to guard the coasts and protect the trade on the ocean, lakes, and great rivers.

Not impress

men in any Colony without the consent of the legislature of that Colony.

Power to make laws, lay duties, &c.

That for these purposes they have power to make laws, and lay and levy such general duties, imposts, or taxes as to them shall appear most equal and just, considering the ability and other circumstances of the inhabitants in the several Colonies, and such as may be collected with the least inconvenience to the people; rather discouraging luxury, than loading industry with unnecessary burthens.

Gen. treasurer and particular treasurer.

That they may appoint a general treasurer and a particular treasurer in each government, when necessary, and from time to time may order the sums in the treasuries of

* According to a plan which had been proposed by Governor Pownall, and approved of by the Congress. vide N. VIII.

each the time being, shall succeed and be vested

each government into the general treasury, or draw on them for special payments, as they find most convenient: yet no money to issue but by joint order of the president general and grand council, except where sums have been appropriated to particular purposes, and the president general is previously empowered by an act to draw for such sums.

Money how to issue.

That the general accounts shall be yearly settled, and reported to the several assemblies.

Accounts.

That a quorum of the grand council, empowered to act with the president general, do consist of twenty-five members, among whom there shall be one or more from a majority of the Colonies.

Quorum.

That the laws made by them for the purposes aforesaid shall not be repugnant, but as near as may be agreeable, to the laws of England, and shall be transmitted to the king in council for approbation as soon as may be after their passing; and if not disapproved within three years after presentation, to remain in force.

Laws to be transmitted.

That in case of the death of the president general, the speaker of the grand council for the time being, shall succeed and be

Death of the president general.

vested with the same powers and authorities, to continue till the King's pleasure be known.

Officers
how ap-
pointed.

That all military commission officers, whether for land or sea service, to act under this general constitution, shall be nominated by the president general; but the approbation of the grand council is to be obtained before they receive their commissions.

Vacancies
how sup-
plied.

And all civil officers are to be nominated by the grand council, and to receive the president general's approbation before they officiate: But in case of vacancy by death or removal of any officer, civil or military, under this constitution, the governor of the province in which such vacancy happens, may appoint, till the pleasure of the president general and grand council can be known.

Each Colo-
ny may de-
fend itself
on emer-
gency, &c.

That the particular military, as well as civil establishments in each Colony, remain in their present state, this general constitution notwithstanding; and that on sudden emergencies any Colony may defend itself, and lay the accounts of expense thence arising before the president general and grand council, who may allow and order payment of the same, as far as they judge such accounts just and reasonable.

vested with the same powers and authorities, to continue till the King's pleasure be known.

N° V.

*Pro Johanne Caboto, & filiis suis, super
terrâ incognitâ investigandâ.*

Rex omnibus ad quos, &c. Salutem.

NOTUM sit & manifestum, quod dedimus & concessimus ac per præsentem damus & concedimus, pro nobis & hæredibus nostris, dilectis nobis Johanni Caboto, civi Venetiârum, ac Ludovico, Sebastiano & Sancto, filiis dicti Johannis, & eorum & cuiuslibet eorum hæredibus & deputatis, plenam & liberam auctoritatem, facultatem & potestatem navigandi ad omnes partes, regiones, & sinus maris orientalis, occidentalis & septentrionalis, sub banneris, vexillis & insignibus nostris, cujuscunque navibus sive navigiis, cujuscunque portitura & qualitatis existant, & cum tot & tantis nautis & hominibus, quot & quantis indictis navibus secum ducere voluerint, suis eorum propriis sumptibus & expensis.

Ad inveniendum, discoperiendum & investigandum quascunque insulas, patrias, regiones, sive provincias gentilium & infidelium,

illum, in quacumque parte mundi possitas, quæ Christianis omnibus ante hæc tempora fuerant incognita.

Concessimus etiam eisdem & eorum cui-
libet, eorumque & cuiuslibet eorum hæredi-
bus & deputatis, ac *licentiam dedimus affigendi
prædictas banneras nostras & insignia in qua-
cumque villa, oppido, castro, insula seu terrâ
firmâ a se noviter inventis.*

Et quod prænominati Johannes & filii
eiusdem, seu hæredes & eorum deputati qual-
cumque huiusmodi villas, castra, oppida &
insulas a se inventas, quæ subjugari, occupari,
& possideri possint, subjugare, occupare &
possidere valeant, tanquam vasalli nostri, &
gubernatores, locatenentes & deputati eo-
rumdem, dominium, titulum & jurisdic-
tionem eorumdem villarum, castrorum, oppi-
dorum, insularum, ac terræ firmæ sic in-
ventarum, nobis acquirendo;

Ita tamen at ex omnibus fructibus, pro-
ficuis, emolumentis, commodis, lucris &
obventionibus, ex huius modi navigatione
provenientibus, præfati Johannes & filii, ac
hæredes & eorum deputati teneantur & sint
obligati nobis, pro omni viagio suo, totiens
quotiens ad portum nostrum Bristollic ap-
plicuerint,

pluerint, ad quem omnino applicare teneantur, & sint astricti, deductis omnibus sumptibus & impensis necessariis per eosdem factis, *quintam partem totius capitalis* lucri sui facti sive in mercibus sive in pecuniis persolvere.

Dantes nos & concedentes eisdem suisque heredibus & deputatis, ut ab omni solutione customarum omnium & singulorum bonorum ac mercium, quas secum reportarint ab illis locis sic noviter inventis, liberi sint & immunes.

Et insuper dedimus & concessimus eisdem ac suis heredibus & deputatis, quod terræ omnes firmæ, insulæ, villæ, oppida, castra, & loca quæcumque, a se inventa, quotquot ab eis inveniri contigerit, non possint ab aliis quibusvis nostris subditis frequentari seu visitari, absque licentia prædictorum Johannis & ejus filiorum suorumque deputatorum, sub pœna amissionis tam navium sive navigiorum, quam bonorum omnium quorumcumque ad ea loca sic inventa navigare præsumendum;

Volentes & strictissime mandantes omnibus & singulis nostris subditis tam in terra quam in mare constitutis, ut præfato Johanni

ni & ejus filiis ac deputatis bonam assisten-
tiam faciant, & tam in armandis navibus
seu navigiis, quam in provisione com meatûs
& victualium pro sua pecunia emendorum,
atque aliarum rerum sibi providendarum,
suos omnes favores & auxilia impartiantur.

In cuius &c.

Teste rege Westmonasterium quinto die
Martii,

Per ipsum Regem

REX &c. reverendissimo in Christo
patri et perquam fideli consiliario
nostro, Willielmo providentiâ divinâ Can-
tuarie Archiepiscopo, totius Angliæ primati
et metropolitano.

Ac per dilecto & perquam fideli consiliario
nostro Thome Dornico Covenantis magni in
Angliâ nostri custodi.

Ac etiam reverendissimo in Christo patri
et per dilecto & perquam fideli consiliario
nostro Ricardo providentiâ divinâ Eboracæ
Archiepiscopo, Angliæ primati & metropo-
litano.

Nº VI.

Necnon reverendo in Christo patri & per
dilecto

-nōfistis manod sitatub es aillā aije 38 in
adivā sibandis tam 38 jaisat mair
sitatimot enon **Nº VI.** sup aigivā uel
murobivory idū muer mairle supis
murobivory idū muer mairle supis

*This Commission—erecting and establishing a
board, for the purpose of governing the
Plantations, is referred to in page 63
of the first volume.*

De Commissione speciali domino archiepif-
copo Cantuariensi et aliis.

REX &c. reverendissimo in Christo
patri et perquam fideli consiliario
nostro, Willielmo providentiâ divinâ Can-
tuariensi Archiepiscopo, totius Anglie primate
et metropolitano.

Ac perdilecto & perquam fideli consiliario
nostro Thome Domino Coventrie magni si-
gilli nostri Anglie custodi.

Ac etiam reverendissimo in Christo patri
ac perdilecto & perquam fideli consiliario
nostro Ricardo providentiâ divinâ Eborum
Archiepiscopo, Anglie primate & metropo-
litano.

IV^o M

Necnon reverendo in Christo patri & per-
dilecto

dilecto & perquam fideli confiliario nostro,
 Willielmo Episcopo London. summo the-
 saurario nostro Anglie;

Perdilectisque & perquam fidelibus con-
 sanguineis & confiliariis nostris,

Henrico Comiti Manchester privati sigilli
 nostri custodi,

Thome Comiti Arundell & Surr, comiti
 marescallo Anglie,

Edwardo Comiti Dorchestrie, camerario
 percharissime consortis nostre regine;

Ac perdilectis & fidelibus confiliariis nos-
 tris,

Francisco Domino Cottington, Cancel-
 lario & subthesaurario scaccarii nostri ac
 magistro Curie nostre Wardorum & Libera-
 tionum,

Thome Edmonds militi, thesaurario hos-
 pitii nostri,

Henrico Vane militi, controrotulatori
 hospitii nostri,

Johanni
 Edwardum

Johanni Coke militi, secretariorum nostrorum primariorum uni, et

Francisco Windebanke militi, secretariorum nostrorum primariorum alteri, salutem.

Cum subditorum nostrorum et nuper patris nostri domini Jacobi nuper regis Anglie, memorie recolende, nonnulli, regiâ licentiâ mediante, imperii nostri territoria, non tantum dilatandi studio, sed precipuè ex pio & religioso domini nostri Jesu Christi evangelium propagandi affectu & desiderio, copiosas gentis Anglicane Colonias, summa industria & magnis expensis in diversas mundi plagas incultas penitus & incolis vacuas, vel a barbaris nullam divini numinis notitiam habentibus occupatas, deduci fecerunt; nos eorum tranquillitati prospicere volentes gratiose & quieti, vestrumque fide, prudentiâ, justitiâ, et provida circumspectione plenius confidentes, constituimus vos predictos,

Archiepiscopum Cantuariensem, dominum custodem magni sigilli nostri Anglie,

Eboracensem Archiepiscopum, dominum thesaurarium nostrum Anglie, dominum custodem privati sigilli nostri, comitem marescallum Anglie,

Edwardum

Edwardum Comitem Dorchestrie, Franciscum Dominum Cottington, Thomam Edmonds Militem, Henricum Vane Militem, Johannem Coke Militem, et Franciscum Windebank Militem, & quoslibet quinque vel plures vestrum commissarios nostros & vobis & quibuscumque quinque vel pluribus vestrum damus & committimus potestatem ad regimen & tutamen dictarum coloniarum deductarum vel que gentis Anglicane in posterum fuerint in partibus hujusmodi deducte, leges, constitutiones et ordinationes, seu ad publicum coloniarum illarum statum, seu ad privatam singulorum utilitatem pertinentes, eorumque terras, bona, debita & successionem in eisdem partibus concernentes, ac qualiter invicem & erga principes externos eorumque populum; nos etiam & subditos nostros tam in partibus exteris quibus cunque; quam in mari in partes illas vel retrò navigando, se gerant, vel que ad sustentationem cleri, regimen vel curam animarum populi in partibus illis degentis, exercentis, congruas portiones in decimis, oblationibus, aliisque proventibus designando spectant, juxta sanas discretiones vestras in politicis & civilibus, & habito consilio duorum vel trium episcoporum, quos ad vos convocandos duxeritis necessarios in ecclesiasticis, & clero portiones designandi, condendi, faciendi, & edendi, ac in legum, constitutionum & ordinationum illarum violatores,

latōres, penas & multas, impositionem, incarcerationem & aliam quamlibet coercionem, etiam si oporteat & delicti qualitas exigerit per membri vel vite privationem infringendas providere; cum potestate etiam (nostro adhibito assensu) gubernatores & prefectos coloniārum illarum a locis suis amovere ex causis que vobis legitime vise fuerint aliosque eorum loco constituere, ac de eis rationem prefecere & regiminis suorum exigere, & quos culpabiles inveneritis vel a loci privatione, multe impositione de bonis eorum in partibus illis levando, vel abdicatione a provinciis illis quibus prefuerint, vel aliter secundum quantitatem delicti castigare, iudicesque & magistratus politicos & civiles ad causas civiles, & cum potestate & sub formā, quā vobis quinque vel pluribus vestrum videbitur expedire, ac iudices, magistratus & dignitates ad causas ecclesiasticas, & sub potestate & formā que vobis quinque vel pluribus vestrum episcopis suffraganeis (archiepiscopo Cantuariensi pro tempore existenti consulto,) videbitur expedire, constituere & ordinare; curiasque, pretoria, & tribunalia tam ecclesiastica quam civilia, iudiciorum formas & procedendi modos in eisdem, & ab eis appellandi in causis & negotiis tam criminalibus quam civilibus; personalibus, realibus & mixtis pretoriis, seu de equo & bono, constituendi,

stituendi, & que crimina, delicta vel excessus, contractus vel injurias ad forum ecclesiasticum, et que ad forum civile & pretorium spectare debeant, determinare;

Provisotamen, quod leges, ordinationes, & constitutiones hujusmodi executioni non mandentur, quo usque assensus noster eisdem adhibeatur regius in scriptis sub signetto nostro signatis, ad minus & hujusmodi assensu adhibito, eisque publice promulgatis in provinciis in quibus sint exequende, leges, ordinationes, & constitutiones illas plenarie juris firmitatem adipisci, & ab omnibus quorum interesse poterit inviolabiliter observari, volumus & mandamus; liceat tamen vobis quinque vel pluribus vestrum, ut predictum est, leges, constitutiones & ordinationes sic edendas, licet promulgate fuerint, assensu nostro regio, mutare, revocare & abrogare, aliasque novas in forma predicta de tempore in tempus facere & edere, ut predictum est, novisque emergentibus malis vel periculis nova apponere remedia, prout decet, toties quoties expediens vobis videbitur et necessarium;

Sciatis ulterius, quod constituimus vos & quoslibet quinque & plures vestrum, prefatos Willielmum Archiepiscopum Cantuariensem, Thomam Dominum Coventrie——, magni
7
figilli

figilli nostri Anglie custodem, Ricardum Eboracensem Archiepiscopum, dominum thesaurarium, Henricum comitem Manchester, Thomam comitem Arundelle & Surrie, Edward comitem Dorchestrie, Franciscum dominum Cottington, Thomam Edmonds militem, Henricum Vane militem, Johannem Cooke militem, et Franciscum Windenbanke militem, commissarios nostros, ad audiendum & terminandum, juxta sanas discretiones vestras, omnimodas querelas five contra colonias ipsas seu eorum prefectos vel gubernatores ad instantiam partis gravate, vel ad delationem de injuriis hinc vel inde inter ipsas vel ipsorum membra aliquod illatis movendas, partisque coram vobis evocare, ac partibus vel eorum procuratoribus hinc et inde auditis, plenum justitie complementum exhibendum; dantes vobis & quibuscumque quinque vel pluribus vestrum, quod si quas coloniarum predictarum vel aliquem prefectorum eorum ditiones alienas injuste possidendo, vel usurpando vel invicem seipso gravando, seu nobis rebelles a fide nostra subtrahendo, aut mandatis nostris non obtemperantes inveneritis, nobis prius in hac parte consultis, colonias hujusmodi & prefectos eorum ob causas predictas, vel aliis justis de causis, vel in Angliam redire, aut ad alia loca designanda divertere mandare,

. VOL. II. M prout

prout secundum sanas discretiones vestras
equum, justum vel necessarium videbitur;

Damus insuper vobis & quibilibet quin-
que vel pluribus vestrum, potestatem &
mandatum speciale, ad omnia, chartas literas
patentes & rescripta regia, de regionibus,
provinciis, insulis vel terris in partibus ex-
teris colonias deducuntibus concessa, vobis
duci facienda, iisque inspectis, si que eorum
surreptivè vel indebitè obtenta, vel per
eamdem, privilegia, libertates vel prerogativa
nobis & corone nostre vel principibus exteris
nociva & prejudicialia, indulta vel concessa
fuisse, vobis quinque vel pluribus vestrum
innotescat, ea secundum legem & consuetu-
dinem regni nostri Anglie, revocari, jubere;
ceteraque agendi, quæ ad regimen salutare
& tutamen coloniarum predictarum & sub-
ditorum nostrorum in eisdem residentium
fuerint necessaria; et ideo vobis mandamus,
quod circa premissa, ad dies & loca que ad
hoc provideritis, diligentes sitis intendentes
prout decet, precipiendo etiam & firmiter
injungendo, damus in mandatis omnibus &
singulis prefectis provinciarum, in quas
colonie predictæ deductæ sint vel fuerint, &
singulis de coloniis ipsis & aliis quorum in
hac parte interest, quod vobis in premissis
sint intendentes, mandatisque vestris in
eisdem

eisdem obtemperantes & obedientes, quoties
et prout ex parte vestra fuerint requisiti, sub
periculo incumbenti.

In cuius rei &c.

Teste rege apud Westmonasterium decimo
die Aprilis.

Per ipsum Regem.

N^o VII.

THAT I may obviate those prejudices by which many people might be led to think, that the doctrines and reasonings contained in the foregoing book are novel, and theories of imagination: That I may at least crave a suspension of those opinions, from whence many people pronounce, that the application made by the Colonies, to deprecate the levying of internal taxes, when imposed by parliament, is unconstitutional and unprecedented; I have here inserted two instances: The one taken from the records of parliament, as abridged and published by Sir Robert Cotton; the other as published by Daniel King, in 1656.

§ 4th *Ricardi 2^{di}*. A parliament at Northampton. Petitions of the Commons, with the answers. A tallage having been granted; the Commons petition, “That the county of Chester, the Bishoprick of Durham, and the Cinque Ports may be comprized with in this tallage.”—The King granted for the Cinque Ports only. Note, that the Warden of the Cinque Ports was summoned to, and sat in this parliament.

§ The

§ The other is a record of an application from the county palatine of Chester, similar to that made by the Colonies, and upon the same ground : with the King's answer, and ordinance made out in form. Wherein not only similar reasonings are exhibited ; but a precedent is also holden forth. By which, government, on one hand, may see, that this county Palatine was exempted from internal taxes laid by parliament, while the said county had not Knights and Burgeses of their own election to represent them in parliament ; and wherein the Colonies may see, on the other hand (by pursuing the precedents relative to this county) that when it was thought proper and adviseable to subject it to taxes imposed by parliament, the privilege of sending Knights and Burgeses to parliament, was the proper and constitutional remedy sought and obtained.

*Copy of a Supplication, exhibited to King
Henry VI. by the inhabitants of the County
Palatine of Chester.*

To the KING, our Sovereign Lord.
Anno D. 1450.

MOST Christian Benigne, and Gracious
King; We your humble subjects, and
true obaisant liege people, the Abbots, Priors,
and all the clergy; your Barons, Knights,
and Esquires; and all the Commonalty of
your County Palatine of Chester, meekly
prayen and beseechen your Highness: Where
the said county is, and hath been a county
palatine, as well before the conquest of Eng-
land, as continually since, distinct and sepa-
rate from the crown of England: within
which county, you, and all your noble pro-
genitors sithen it came into your hands, and
all rulers of the same, before that time, have
had your high courts of parliament to hold
at your wills, your chancery, your exche-
quer, your justice to hold pleas, as well of
the crown, as of common pleas. And by
authority of which parliament, to make or
to admit laws within the same, such as be
thought expedient and behovefull for the
weal of you, of the inheritors, and inhe-
ritance

ritance of the said county. And no inheritors or possessioners *within the* said county, be not chargeable, lyable, nor have not been bounden, charged nor hurt, of their bodies, liberties, franchises, land, goods, nor possessions, *within the same county*, [* *but by such laws as they*] have agreed unto. And for the more proof and plain evidence of the said franchises, immunities, and freedoms; the most victorious King William the Conqueror, your most noble progenitor, gave the same county to Hugh Loup his nephew, to hold as freely to him and to his heirs *by the sword*; as the same King should hold all England *by the crown*. Experience of which grant, to be so in all appeals and records, out of the same; where, at your common-law it is written, *contra coronam et dignitatem vestram*: It is written in your time, and your noble progenitors, sinth the said Earldome came into your hands, and in all Earls times afore, *Contra dignitatem gladii Cestrie*. And also they have no Knights, Citizens, ne Burgessees, ne ever had, of the

* The above is a literal transcript of the Record as published by Daniel King. I have not the means of consulting the original, there is certainly some omission or default in the copy. I have inferred the words, *but by such laws as they*, printed between hooks. I see no other way of making sense of it. I have also, in the same manner, between hooks, inserted the words *be wrong*.

said county, to any parliament holden out
 of the said county; whereby they might, in
 any way of reason be bounden. And also ye
 and your noble progenitors, and all Earles,
 whose estate ye have in the said Earledome;
 as Earles of Chester, sith the conquest of
 England have had within the same; *regalem,*
potestatum, jura regalia, prerogativa regia.
 Which franchises notwithstanding, there be
 your commissions directed out to several com-
 missioners of the same county, for the levy
 of subsidy, granted by the commons of your
 land, in your parliament, late begun at West-
 minster, and ended at Leicester, to make
 levy thereof within the said county, after the
 form of their grant thereof, contrary to the
 liberties, freedoms, and franchises, of the
 said county, and inheritance of the same,
 at all times, before this time used, that
 please your noble grace, of your blessed fa-
 vour, the premises graciously to consider;
 and also, how that we your beseechers, have
 been as ready of our true hearts, with our
 goods, at times of need, as other parts of
 your lands; and also ready to obey your laws
 and ordinances, made, ordained, and ad-
 mitted within the said county, and if any
 thing amongst us [*be wrong,*] ready to be re-
 formed by your Highness, by the advice of
 your council, within the said county; and
 hereupon to discharge all such commissioners
 of

of levy of the said subsidy within the said county, and of your special meer grace, ever, to see that there be never act in this parliament, nor in any parliament hereafter, holden *out of the said county*, made to the hurt of any of the inheritors, or inheritance of the said county, of their bodies, liberties, franchises, goods, lands, tenements, or possessions, being *within the said county*. For if any such act should be made, it were clean contrary to the liberties, freedoms, immunities, and franchises of the said county. And as to the resigning of such possessions, as it hath liked your Highness, to grant unto any of your subjects: all such as have ought of grant within the said county, will be ready to surrender their letters pattents, which they have of your grant, for the more honourable keeping of your estate; as any other person or persons within any other part of your land; or else they shall be avoided by us, under your authority committed unto us, within your said county. And furthermore, considering that your beseechers are, and ever have been true, dreading, obaisant, and loving unto you, and of you, as unto you; and of our most dowed Sovereign Lord, our Earle and natural Lord: We the said Barons, Knights, Esquires, and Commons, are ready to live and die with you, against all earthly creatures; and by your licence, to
shew

shew unto your Highness, for the gracious expedition of this our most behoveful petition. And we the said Abbots, Priors, and clergy, continually to pray to God for your most hounerable estate, prosperity, and felicity, which we all beseeke God to continue, with as long life to reign, as ever did prince upon people; with issue coming of your most gracious body, perpetually to reign upon us for all our most singular joy and comfort,

The Kings will is, to the subsidy in this bill contained. Forasmuch as he is learned, that the beseechers in the same, their predecessors, nor ancestors, have not been charged afore this time, by authority of any parliament holden out of the saide county, of any quindisme, or subsidy, granted unto him or any of his progenitors, in any such parliament; That the beseechers, and each of them be discharged of the paying and levy of the said subsidy. And furthermore, the King willeth, that the said beseechers, their successors and heirs, have and enjoy all their liberties, freedoms, and franchises, as freely and entirely as ever they, their predecessors or ancestors in his time, or in time of his progenitors, had and enjoyed it.

Prosecuta fuit ista Billa ad Dominum Regem per Johannem Manwaring Militem, Radulphum Egerton, Robertum Foulshurst, Robertum Leigh de Adlington, et Johannem Needham, Anno, R. R. H. 6, post conquestum Anglie viceffimo nono.

By the King.

TRUSTY and wellbeloved in God, and trusty and well beloved we greet you well. And forasmuch as we have understanding, by a supplication presented unto us, on the behalf of all our liege people within our county palatine of Chester: How their predecessors nor ancestors, have not been charged before this time, with any fifteenth or subsidy granted unto us, or any of our progenitors, by authority of any parliament, holden out of our said county, for which cause, we have charged our chamberlain of our said county, to make our writs, directed to all our commissioners, ordained for the assessing and levy of the subsidy last granted unto us: Charging them to surcease of any execution of our letters of commission, made unto them, in that parties. Wherefore, according to our commandment late given by us, unto our said Chamberlain: We will that

that ye in our behalf, open and declare unto all our said liege-people : How it is our full will and intent, that they be not charged with any such grant, otherwise than they, their predecessors and ancestors have been charged afore time. And that they have and hold, posside, and enjoy, all their liberties, freedoms, and franchises, in as ample and large form, as ever they had in our, or any of our said progenitors days: And that ye fail not thereof, as we trust you, and as you deem to please us.

Given under our signet of the Eagle, at our pallace of Westminster, the eighth day of March, *Anno R. R. H. 6. Viceffimo nono.*

To our trusty and wellbeloved in God, the Abbot of our monastery of Chester, and to our trusty and wellbeloved Knights Sir Thomas Stanley, our Justices of Chester, Sir John Manwaring, and to every of them,

N^o VIII.

ALTHOUGH the following papers, at the time in which they were written, had reference to the state of the service as opposed to the French measures and power in America; although they are parts of another work intended to be published at some future time; yet they are here annexed to *the Administration of the Colonies*, as they treat of matters very worthy present consideration; and as in general they contain ideas of police, which respect the possession, preservation, and improvement of those acquisitions which our conquests have put into our hands; and the forming them into some system of empire, that shall be the empire of Great Britain.

The first paper, which had for its object the forming of the British possessions, together with those of our allies the Indians, into a system of barrier against the French; was written at a time when the subject was entirely new; scarce ever brought forward to consideration here in England; and when authentic accounts of the true state of the country, as possessed by the English and French, were with great difficulty, if at all,
to

to be obtained; and I may venture to say, utterly unknown to our military.

The latter of these papers, was written after it became necessary to change the object of the war; and the only thing which I wish to say of the ideas that it contained, is, that they were literally justified by the events.

A MEMORIAL:

STATING the NATURE of the SERVICE in NORTH AMERICA, and proposing a GENERAL PLAN of OPERATIONS, as founded thereon.

** Drawn up by Order of, and presented to, his Royal Highness the Duke of Cumberland, 1756. By T. POWNALL.*

HIS Majesty has now reunited the service in North America into one power of action, and under one direction, by appointing a commander in chief over all North America, with powers to direct, and with force to carry on this service, as a one whole. The next and necessary point therefore is, that there should be some *one general*

** From Letters and Memorials which I had, in the years 1754 and 1755, sent to the Earl of Halifax.*

plan

plan of operations fixed; which may be carried on, not only by the general forces employed in the general and military part of this plan, but by every particular province and colony, within its own private councils, and own private operations, coincident with the whole. When such plan is fixed, every sum of money that is raised for this service, will be applied to what shall be of real service and permanent use; and every the most minute operation that is undertaken, will become as part of such plan, "Εργον εις διην;" —and every (the most otherwise insignificant) measure would become of more importance, and more service, than twenty the most expensive and bustling operations, that arise from momentary and partial starts of whim, vanity, or interest: there could not even a logg-house be built, nor scarce a piquet stuck down in any part of the country, but what would be a necessary measure, and whose use (however trifling the thing in itself) would extend to the grand service of the whole: there would not be a pound, scarce a penny, raised; but would have its share in this grand service. On the contrary, while private persons, or particular independent bodies of people; have consulted only the momentary partial starts of whim, vanity, party, or interest, under the influence of such motives; without any general scheme

to

to the defence of the country, the *taking possession* of it, or the command of it; without any reference to any general idea; forts have been built up and down the country, that could never have been of use; have never been used; have never been supported; have been left to go to ruin; have been abandoned to the enemy: or, if they have been kept up at all, have been a private standing job to all concerned in them. While thus large sums of money have been squandered away to no use; or bad ones; while thus fruitless detached measures, (that have been of no use; but a perversion of, and incumbrance to the general service, and interfering amongst each other;) have been pursued by vague, random fits and starts; the public service has not only been ruined, but the people have lost all opinion and confidence in military operations; have been discouraged and alienated from engaging in any active measures; and always suspicious, that whatever sums they give to such, are either thrown away, or put into the private pocket of some job. On the contrary, were there some one general plan of operations formed; upon the practicability and really intended execution of which they might confide; the assemblies might be persuaded, the people would be willing, and I verily believe would be persuaded, to give amply and

and chearfully: so that it is not only necessary to the gaining the end proposed, but also absolutely necessary to the gaining the means, that some such general plan should be fixed.

In order to which, the following paper proposes to consider,

1st, The site of the country:

2^{dly}, The interests of the possessions and settlements:

As the basis of

3^{dly}, The state of the service in America.

It becomes necessary to a right understanding of these proposed objects, to recur and run up to the first principles on which they were founded; not only because the subject is *new*, but because it has been misconceived, and misrepresented.

1st, Prior to any observations on the settlers and settlements, it will be necessary to take some notice of the peculiar state and site of the countries, in which they are settled: for it is the site and circumstances (I mean those that are unchangeable) of a country, which give the characteristic form,

to the state and nature of the people who inhabit it.

The consideration of the continent of America, may be properly divided into two parts; from the two very different and distinct ideas that the face of the country presents; but more especially from the two distinct effects which must necessarily, and have actually arisen, from the two very different sorts of circumstances to be found in each tract of country.

All the continent of North America, as far as known to the Europeans, is to the westward of the endless mountains, a high level plane: all to the south-east of these mountains, slopes away south-easterly down to the Atlantic Ocean. By a level plane, I must not be understood, as if I thought there were no hills, or vallies, or mountains in it; but that the plane of a section, parallel to the main face of the country, would be nearly an horizontal plane; as the plane of a like section of this other part would be inclined to the horizon, with a large slope to the Atlantic Ocean. The line that divides these two tracts; that is the south east edge of these planes, or the highest part of this slope; may in general be said to run from Onondago, along the westernmost Alleghani ridge

ridge of the endless mountains, to Apalatche in the gulf of Mexico.

2dly, In considering first the main continent; this high plain; it may be observed, with very few exceptions in comparison to the whole, that the multitude of waters found in it, is properly speaking, but of two masses: the one composed of the waters of the lakes and their suite, which disembogue by the river St. Lawrence; the other that multitude of waters which all lead into the Mississippi, and from thence to the ocean: the former into the gulph of St. Lawrence, the latter into the gulph of Mexico.

There are in all the waters of Mississippi, at least as far as we know, but two falls; the one at a place called by the French St. Antoine, high up on the west or main branch of Mississippi; the other on the east branch called Ohio. Except these, and the temporary rapidity arising from the freshes of spring, and the rainy seasons; all the waters of the Mississippi run to the ocean, with a still, easy and gentle current.

As to all the waters of the five great lakes, and the many large rivers that empty themselves into them; the waters of the great

Ottawa river, the waters of the lake Champlain, of Trois Rivières, and the many others that run into the river St. Lawrence above Quebec; they may all be considered in one mass, as a *stagnation* or lake of a wilderness of waters, spreading over the country by an infinite number and variety of branchings, bays, straits, &c. for although at particular places of their communications, and at the mouths of their streams, they seem to pour out such an immense ocean of waters; yet when they are collected and assembled together, as at a general rendezvous where they all disembogue themselves into the river St. Lawrence; the whole embouchure of this multitude of waters, is not larger than the * Seine at Paris. The waters of each respective mass (not only the lesser streams, but the main general body of each) going through this continent in every course and direction, have, by their approach to each other, by their interlocking

* About 12 French leagues above Quebec, over against a place called la Loubinière, the river St. Lawrence appears to be of a very considerable breadth; but when the tide, which runs up much higher than that place, has its ebb entirely retired; that breadth which one would have judged to have been that of the St. Lawrence river, remains all dry; except a small channel in the middle, which does not appear to be much larger than the Seine at Paris; nor the waters of it that pass there, to have a greater current.

with each other, by their communication to every quarter and in every direction; an alliance and unity; and form one mass, a one whole.

Let any one raise in his mind the idea of some low country incapable of being travelled, except on the artificial roads, causeways, dykes, &c. that have been made through it; and that these roads have throughout the whole country a communication which connects and forms them into a one system of design, a one whole; such person will readily conceive how easily and with what few numbers, a General may take possession and hold the command of this country; and when once possessed, how easily he may defend it, by fortifying with redoubts and such works, the strong holds and passes in it; and at what an almost insurmountable disadvantage, any one, who aims to recover it, must act, even with twenty times the numbers. If these roads and lines have thus a communication forming a one whole, they are the foundation or basis of a command throughout the whole country; and whoever becomes possessed of them, has the command of that country.

Now let any one behold and consider the continent of America, as it really is; a wilderness

derness of woods and mountains, incapable of land carriage in its present natural unwrought form; and not even to be travelled on foot, unless by the good will of the inhabitants; as such travelling in those woods and mountains is perpetually and unavoidably liable to ambuscades, and to the having the communication from the one part to the other cut off—Let such person also know, that the waters for these reasons have ever been the only roads that the inhabitants use; and until art and force make others, are the only roads that any body of people can in general take—Compare this state of country, with what is above described; and the same conclusion, *mutatis mutandis*, will be found to be derived from it.

Seeing this, as fact and experience shews it to be; let such person then recollect what is said above of the communication and alliance amongst the several waters of this continent—of the unity, one mass, and one whole, which they form—he will see in a strong light, how the watry element claims and holds dominion over this extent of land; that the great lakes which lie upon its bosom on one hand, and the great river Mississippi and the multitude of waters which run into it, form there a communication,—an alliance or dominion of the watrey element, that

that commands throughout the whole—that these great lakes appear to be *the throne*, the *centre of a dominion*, whose influence, by an infinite number of rivers, creeks and streams; extends itself through all and every part of the continent; supported by the communication of, and alliance with, the waters of Mississippi.

If we give attention to the nature of this country, and the one united command and dominion which the waters hold throughout it; we shall not be surprised to find the French (though so few in number) in possession of a power which commands this country: nor on the other hand, when we come to consider the nature of this eastern part of America, on which the English are settled, if we give any degree of attention to the facts; shall we be surprised to find them, though so numerous, to have so little and languid a power of command, even within the country where they are actually settled. I say a very strong reason for this fact, arises out of the different nature of the country, prior to any consideration of the difference arising from the nature of their government, and their method of taking possession of this country.

This country, by a communication of
N 4 waters,

waters, which are extended throughout; And by an alliance of all these into one whole, is capable of being, and is naturally, a foundation of a one system of command. Accordingly, such a system would, and has actually taken root in it, under the French. Their various *possessions* throughout this country, have an order, a connection and communication; an unity, a system, forming fast into a one government; as will be seen by and by. Whereas the English settlements have naturally, neither order, connection, communication, unity, nor system. The waters of the tract on which the English are settled, are a number of rivers and bays, unconnected with, and independent of each other, either in interest, or natural communication within land. The vague dissipated random settlements therefore, (scattered up and down these,) will have no more communication or connection amongst themselves, than there is amongst the various independent streams they are settled upon. This country, instead of being united and strengthened by the alliance of the waters which run in it; is divided by these several various streams, (detached from, and independent of each other,) into many separate detached tracts; that do naturally, and have actually, become the foundation of as many separate and independent interests.

As far as the communion of the waters of any river, or the communion thereof may be between any two rivers, extends; so far extended will arise a communication of system, of interests and command: the settlements therefore on this tract of country, would be naturally, as they are actually, divided into numbers of little, weak, unconnected, independent governments--Were I to point out the natural division of these tracts and interests, it would point out a new division of the governments of the Colonies, which is not the purport of this paper.

The consideration of this country, so far as it is connected with, or has any effect upon the interests and politics of the English settlements, presents itself to view, divided in two ideas--1st, The country between the sea and the mountains: 2dly, The mountains themselves. The first part is almost throughout the whole, capable of culture, and is entirely settled: The second, a wilderness; in which is found here and there, (in small portions in comparison of the whole,) solitary detached spots of ground fit for settlements: the rest is nothing but cover for vermin and rapine, a den for wild beasts; and the more wild savages who wander in it.

Thus

Thus far of the site of the country, as it becomes the foundation of a natural difference between the English and French possessions in America. The next point that presents itself to consideration is, the manner in which the English and French have taken possession of, and settled in this country: And,

1st, Of the French.

The French in their first attempts to settle themselves in these parts, endeavoured to penetrate by force of arms; to fix their possessions by military expeditions; till through the perpetual and constant abortion of these measures, and the certain disappointment and sure loss that attended them, they through a kind of despair gave over all thoughts of such attempts.

Whether the dear-bought experience that they learnt from hence; or whether despair, leaving their Colony to make its own way; or whether rather, the right good sense of Mr. Frontenac and Mr. Calliers, led them to it, is neither easy nor material to determine; but so it was, they fell afterwards into that only path, in which the real spirit and nature of the service led.

The

The native inhabitants (the Indians) of this country, are all hunters; all the laws of nations they know or acknowledge, are the laws of sporting; and the chief idea which they have of landed possessions, is that of a *bunt*. The French settlers of Canada universally commenced hunters, and so insinuated themselves into a connection with these natives.

While the French kept themselves thus allied with the Indians as hunters; and communicated with them in, and strictly maintained all the laws and rights of sporting; the Indians did easily and readily admit them to a local landed possession: a grant, which rightly acquired and applied, they are always ready to make; as none of the rights or interests of their nation are hurt by it: While on the contrary, they experience and receive great use, benefit, and profit, from the commerce which the Europeans therein, establish with them. Whereas on the contrary, the English, with an insatiable thirst after landed possessions, have gotten deeds, and other fraudulent pretences, grounded on the abuse of treaties; and by these deeds claim possession even to the exclusion of the Indians, not only from many parts of their hunting grounds, (which with them is a right of great consequence) but

but even from their house and home; as by particular instances, from one end of the continent to the other, might be made appear. Upon these pretences they have driven the Indians off their lands.—The Indians unable to bear it any longer, told Sir William Johnson, *that they believed soon they should not be able to hunt a bear into a hole in a tree; but some Englishman would claim a right to the property of it as being his tree.*—And whatever the great proprietors, patentees, and land jobbers, may affirm or affect to prove; or however angry they may be with those who declare this truth; this is the sole ground of the loss and alienation of the Indians from the English interest; and this is the ground the French work upon.—On the contrary the French possessions interfere not with the Indians rights; but aid and assist their interest, and become a means of their support.—This will more clearly and better appear, by a more minute and particular attention to the French measures in these matters.

1st, No Canadian is suffered to trade with the Indians, but by licence from the government, and under such regulations as that licence ordains. The main police of which is this—The government divides the Indian countries into so many hunts, according

ording as they are divided by the Indians themselves. To these several hunts there are licences respectively adapted ; with regulations respecting the spirit of the nation whose hunt it is ; respecting the commerce and interest of that nation ; respecting the nature of that hunt.

The Canadian having such licence, ought not to trade and hunt, within the limits of such hunt, but according to the above regulations : and he is hereby absolutely excluded under severe penalties to trade or hunt, beyond these limits, on any account whatever.

It were needless to point out the many good and beneficial effects arising from this police, which gave thus a right attention to the interest of the Indians ; which observed the true spirit of the alliance, in putting the trade upon a fair foundation ; and which maintained all the rights and laws of the hunt, that the Indians most indispensably exact.

But the consequence of the most important service which arises out of this police ; is a regular, definite, precise, assured knowledge of the country.

A man

A man whose interest and commerce are circumscribed within a certain department, will pry into, and scrutinize every hole and corner of that district: When such a hunt is by these means as full of these *coureurs des bois*, as the commerce of it will bear; whoever applies for a licence, must betake himself to some new tract or hunt, by which again begins an opening to new discoveries and fresh acquisitions.

When the French have by these means established a hunt, a commerce, alliance and influence; amongst the Indians of that tract; and have by these means acquired a knowledge of all the waters, passes, portages, and posts, that may hold the command of that country; in short, a *military knowledge* of the ground; then, and not before, *they ask and obtain leave* of the Indians to strengthen their trading house; to make it a fort; to put a garrison in it.

In this manner, by becoming hunters, and creating alliances with the Indians as brother-sportsmen; by founding that alliance upon, and maintaining it (according to the true spirit of the Indian law of nations) in a right communication and exercise of the true interest of the hunt; they have insinuated themselves into an influence
over

over the Indians; have been admitted into a landed possession; and by locating and fixing those possessions in alliance with, and by the friendly guidance of the waters, whose influence extends throughout the whole; they are become possessed of a real interest in, and real command over the country. They have thus throughout the country sixty or seventy forts; and almost as many settlements, which take the lead in the command of the country; *not even one of which forts, without the above true spirit of policy, could they support, with all the expence and force of Canada:* Not all the power of France could, ('tis the Indian interest alone, that does) maintain these posts.

Having thus got possession in any certain tract; and having one principal fort; they get leave to build other trading houses and entrepôts; at length to strengthen such; and in fine to take possession, of more and more advanced posts; and to fortify and garrison them, as little subordinate forts, under the command of the principal one.

Though these principal forts have subordinate forts dependent on them; they are yet independent of each other; and only under the command of the governor general: there is a routine of duty settled for these,

these, and the officers and commanders are removed to better and better commands: What the particulars of this are, and of the distribution of the troops, I have not yet learned as to Canada; but in general, the present establishment for this service is three thousand men; of which there are generally two thousand three or four hundred effective.

I have not been able to get an exact list of the forts in Canada; but the following is sufficient to sketch out the manner in which they conduct this service.

It will be necessary first, to describe the line which now divides Canada and Louisiana in the Illinois country. It begins from the Oubasch at the mouth of Vermillion river; thence to the post called Le Rocher on the river Pæorias; and from thence to the peninsula, formed at the confluence of Rocky river, and the Mississippi.

Forts in CANADA.

ST. FREDERICK,	{	St. John.
		Carillon or Ticonderoga.
		L' Presentation.
FRONTENAC,		Les Coudres.
	{	Quintez.
		NIAGARA,

NIAGARA,

{ Toronto.
One other.

MISSILIMAKINAC, and its Dependencieis.

DU QUESNE,

{ Presq' Ile.
Riviere au Bœuf.
One other.

LE DETROIT,

TWO

{ 'Twas proposed to the Court
in the year 1752, to erect
this into a Lieutenancy du
Roy.

The Post MIAMIS
and SIOUX.

Two or three.

NIPIGON,

{ One on the River Melchi-
pocoton.
One other on the Long
River.

ST. JOSEPH,

and one other

LE PETIT PARIS.

ALIBI.

SAGUENAY.

ST. JOHN'S, in Nova Scotia.

In all about fixty.

Most of these forts have fine settlements round them, and they do entirely support themselves; it being usual for both officers and men to defer receiving their pay till the garrison is relieved, which is generally in six

years ; and scarce any thing is sent to these garrisons, but dry goods and ammunition.

There is a fine settlement at Detroit, of near two hundred families ; a better still at St. Joseph, of above two hundred ; a fine one at St. Antoine ; many fine ones about Petit Paris. But the French government does not encourage these ; and has, by a positive ordonance, absolutely forbid any one to make a settlement without special licence ; which measure they found necessary to take, in order to restrain the Canadians from totally abandoning Canada.

The establishments, posts, and settlements of Louisiana, are as follow :

Thirty-seven companies of fifty men each, and two Swisse companies of seventy-five men each.

I. The garrison of New Orleans :

French	-	900	}	-	-	-	-	-	-	975
Swisse	-	75								

Out of which are garrisoned the outposts of Bálisse, and other small posts.

Brought over 975

Detour Anglois ; The garrison of this consists of four companies, which have their tour of duty with the Mobile, Illinois, &c.

Mobile, eight French companies, and one Swisse - - - - 475

“ It is necessary to fix this number here, on account of the proximity of Panfacola, on one part, and of the English on the other ; as also to influence the Indians, as there are at our meetings and treaties, held here annually with the Indians, sometimes 2, sometimes 3,000 Indians present *.”

Tombechbé, } One company each, a
Alibamous, } detachment from the
 garrison of Mobile.

Four companies of this garrison relieved every year.

The Illinois six companies - - - 300
1750

* Mr. Vaudreuil to the court.

Brought over 1750

The posts were, in 1752,	{	Calkafias.
		Fort de Chartres.
		Village de St. Philip.
		Praire de Rocher.
		Cohôkias.
	{	Village de St. Jeune
Veuve.		

The Akanfas, a less principal post, one company - - - 50
 The Natches, one company - - - 50
 The Nachitoches, one company - - - 50
 for the present on account of their not being able to prevent desertions to the Adages, a Spanish post within 7 leagues of it. They propose, when they shall be able to settle a cartel with the Spanish governor, and his Majesty approves of it, to fix two companies there, it being a frontier post.

The Point Coupe, one company - - 50
 The German Settlement, one company 50

Total 2,000

The settlements of Louisiana in general, produce Indigo equal to the Guatimalo, which admit three cuttings or crops annually ;

ally; rice in great abundance, and cotton; but they find great difficulty in cleansing it from the seeds that accompany its growth here; tobacco, pitch, tar; they have a trade to their own islands with flour, peas, beans, salted or corned wild beef; and pork, hams of hogs and bears, tallow, grease, oil, hides, lumber, planks; they have also myrtle wax, which they export to France; they do also, in small quantities, manufacture the buffalo wool. From the abundance and natural growth of mulberry trees, they have their thoughts turned to silk; they have iron, lead, copper, and coals in abundance; besides the skins and coarse furs, arising from the Indian trade and hunt: They had, so long ago as in the year 1744, several vessels at their port, which came from Florida and Havanna, and the bay of Campeachy, to trade for boards, lumber, pitch, dry goods, and live stock, to the value of 150,000 pieces of eight. They had a settled treaty of commerce with the Royal Company of Havanna; by the terms of which, the French were to deliver them at Louisiana, pitch at two piastres a barrel, tar at three piastres a barrel, boards at two reals each. Their settlements towards the mouth of Mississippi, are almost deserted and ruined; the settlers not being able to support the expence of banking against the inundations of the sea and

and land floods. Mr. Vaudreuil says, in a letter to the court, September 28, 1752, he thinks it would be much better, to defer for some years attempting settlements here, till the ground be more raised and elevated by the accretion of soil, as it has been three feet in fifteen years last past.

I mention nothing here of the posts of New Orleans, Detour Anglois, and Balise, nor of Mobile; because, being marine posts, the consideration of them does not come within the scope of this paper. I will observe, that they require our particular attention: They are become the ports to which all the men and stores, with which the country of the Ohio is furnished, are sent annually and constantly; as from New Orleans to this country, the way is much shorter than through Canada; the distance being at the most, (where they are obliged at low water to follow all the windings of the river,) not more than 340 French leagues; but at the usual times that they send their convoys, not more than 300; and to which they can go up with decked sloops, nine or ten months in the year. The trade comes down from the Illinois, about the latter end of December; and goes up towards the latter end of January, or the beginning of February,

I shall

I shall describe the post of Tombechbé, from Mr. Vaudreuil's letters.

This post restrains the Alibamôus, Talapouches, Abekas, and Cowêtas; preserves the communication between the waters of Mobile, Alibamous river and the Mississippi; 'tis necessary for us, in order to keep up amongst the Chactaws, the spirit of warring against the Chickasaws; 'tis also necessary as an entrepôt in our expeditions against the Chickasaws and English. From hence we can go within seven or eight leagues of the villages of the Chickasaws with periaugoes, by the river Tombechbé, over which, seven or eight leagues of land carriage, we can easily go by land, and carry cohorns and light field-pieces; from hence also it is, that we must send out our parties against the Carolinians: yet this fort being a heavy expence, and with great difficulty supplied; and being so situated as to be of no use to hinder the English from going to the Chactaws, when that nation is inclined to receive them: as they may conduct their convoys a little above, or a little below the fort, without our being able to oppose them—This being the case; were the Chactaws entirely secured in our interest, were the Chickasaws destroyed, and had the English lost and given up all hopes of strengthening them-

April 20,
1751.

January 6,
1746.

October 28,
1746.

March 6,
1749.

September
24, 1751.

themselves in that quarter, as we hope to effect; I then think it would be no longer necessary to keep up this post: yet till this be effected, it must be kept up; and more especially, as by suppressing it now, the Chactaws would think themselves abandoned. This post, as well as Alibamous, should always be victualled for a year, lest by any revolution in Indian affairs, the road to it should be obstructed.

January 12,
1751.

May 30,
1751.

As to the posts in the Illinois country, I am not able to describe them particularly; but what appears to be of more consequence, I collect from Mr. Vaudreuil's letters, (from 1743, to 1752) the general idea, upon which the fortifying and securing that country is founded.

July 18,
1743.
August 30,
1744.

The first fort of their plan, in fortifying the Illinois country, was on the peninsula, in lat. 41. 30. This was a check upon, and barrier against the several nations of Sioux, not then in confederacy with them. The next post in this plan was on the river Dorias, (so called after the junction of the Illinois river and Theakiki) which would be of more especial use, if situated on the north of the lake on that river, whence the roads divide; that lead to Massilimakinae and St. Joseph.

Joseph: This he describes as the key to the Illinois country from Canada.

The next is the garrisoning and fortifying the country, from the mouth of Missouris to Kaskaskias, where there are five posts. Mr. Vaudreuil thinks that Kaskaskias is the principal, as it is the pass and inlet of the convoys of Louisiana, as also of those of Canada, and of the traders and hunters of the post Detroit, and that of the greatest part of the savage nations.

May 15,
1751.

There is also at this post, a river where the sloops which come from New Orleans, may be safely laid up in winter.

But Mr. M'Carty, who was on the spot, thinks the environs of Chartres a far better situation to place this post in, provided there were more inhabitants. He visited fort Chartres, found it very good, only wanting a few repairs, and thinks it ought to be kept up.

Mr. M'Carty to Mr. Vaudreuil,
January 20,
1752.

The next post (I take them in order of place, not of time) which comes into this plan, is on the Ohio, over against the mouth of the Cherokee river: this, he says, would be the key of the colony of Louisiana; would be a sufficient barrier against the En-

November
4, 1745.

August 30,
1744.

glish,

May 15,
1751.

glish, and restrain their incroachments; and would obstruct their designs in alienating the Indians of the Ohio; it would restrain the incursions of the Cherokees, on the river Ouabash, and river Mississippi; it would also check the Chichasaws; and would by these means secure the navigation of the Mississippi, and the communication with our posts. He here expresses the greatest uneasiness, (as the French court did not care to engage in the measure at that time) lest the English should build a fort here; in which case, says he, we must give up all communication with the Illinois; for the English would become masters of all the navigation of that country.

November
4. 1743.

April 8,
1752.

Mr. Jonquiere proposes another fort at the mouth of Rocky river, (this is in the government of Canada) which, he says, would secure the tranquillity of the south of Canada. This, says Mr. Vaudreuil, together with the post of the Illinois, would restrain and become a barrier against the English; and cover all our Indian allies to the west, from our enemies, the English, the Cherokees, the Catawbás, and others.

By these posts above, and the posts of the Miamis, this whole country is secured and fortified. This country, says Charlevoix, (in

(in 1721) will become the granary of Louisiana; and in 1746, we find it actually becoming so; for in that year it sent down to New Orleans fifty ton of flour; in 1747, we find it well furnished with provisions, and having fine crops; and in a letter of Mr. Vaudreuil's 1748, we have an account of its produce and exports — flour, corn, bacon, hams, both of bears and hogs, corned pork and wild beef, myrtle wax, cotton, tallow, leather, tobacco, lead, copper, some small quantities of buffalo wool, venison, poultry, bears-grease, oil, skins, and some coarse furs; and we find a regular communication settled with New Orleans, by convoys which come down annually the latter end of December, and return at latest by the middle of February.

Thus the French do not only *settle* the country, but also *take possession of it*; and by the form, site, and police of such possessions, (led on and established by the guidance of, and in alliance with the waters,) a natural foundation of a one command, have they acquired; and become possessed of *the command of this country*.

By these means, (I repeat it,) have they created an alliance, an interest, with all the Indians on the continent; by these means have

have they acquired an influence, a command, throughout the country: They know too well the spirit of Indian politics, to affect a superiority, a government, over the Indians; yet they have, in reality and truth of more solid effect, an influence, *an ascendancy* * in all the councils of all the Indians on the continent, and lead and direct their measures; not even our own allies, the Five nations excepted; unless in that remains of our interest, which, partly the good effects of our trading house at Oswego, and partly General Johnson, has preserved to the English, by the great esteem and high opinion the Indians have of his spirit, truth, and honour.

* I mention nothing here of the influence of the Jesuit missionaries, because nothing is meant less than religion by them.

The English American provinces are the settlements as any in the world - but can scarce be called possessions, because they are settled, as to have no possession of the country. They are settled as farmers, millers, fishermen, upon bays and rivers, that have no communication or connection of interest.

EAST.

EAST.**In the French Interest.**

Bsquimaux.
St. John's.
Micmacs.
Pehobscots.
Noridgwaks.
Abenakais.
St. Francis Indians.
Cachnewage.
Scaatecoke.
Ofwegatchie.

Senekes. } Supposed to be in
Onondagas. } the British Inte-
Cayugas. } rest, but greatly
Oneidas. } debauched by the
Tuskaroras. } French.

Mohawks. } Wholly in the Bri-
Mehikanders. } tish Interest.

Delawares. } Lost to the English,
Shawenese. } except a few on
Susquehanah.

Catawbas. } Supposed in the En-
Cherokees. } glish Interest, but
Chickasaws. } much debauched
by the French.

WEST.**French.**

Sioux.
Nadonefferies.

Illinois.

Tawigtwaes.

Miamis.

Piankeeshanags.

Wawyaetses.

Pieques.

Kaskaskies.

Cawetas.

Abekas.

Talaponches.

Alihamons.

} The four Na-
tions of the
Creeks, as
above.

NORTH.**Wholly French.**

Assinipoeles.

Adirondacks.

Algonkins.

Outawawaes.

Chononderdes

or Hurons.

Messisagues.

Outagamies.

Miscontiris.

Sakis.

Christanaux.

Almipogins.

Nipisenes.

} Skaniadere-
roenues.

SOUTH.

Ofagaes.

Akanfaes.

Chactaws.

Panimaes.

Adages.

} Wholly French,

The English American provinces are as fine *settlements* as any in the world; but can scarce be called *possessions*, because they are so settled, as to have no possession of the country: They are settled as farmers, millers, fishermen, upon bays and rivers, that have no communication or connection of interest; consequently,

consequently, the settlers belonging to these rivers, bays, &c. have no natural connection.

But further, the settlers upon any one river or set of waters, (which waters having a connection, might become the natural seat of a one interest) are yet so settled, that they have no connection nor union amongst each other; scarce of communion; much less of defence.

Their settlements are vague without design, scattered, independent; they are so settled, that from their situation, 'tis not easy for them to unite in a system of mutual defence; nor does their interest lead them to such system; and even if both did, yet through the want of a *police* to form them into a community of alliance, unity, and activity amongst themselves; they are helpless and defenceless; and thus may the English be considered as having, for many hundred miles, a long *indefensible line of frontiers*, prior to the consideration of the nature of the enemy they may be engaged with.

3dly, The state of the service as arising from the above facts.

It appears from the first cast of the eye, that

that the English, without some *preparative measures*, will not be able to carry into execution any military expeditions against the French in the upper part of America; because from any post where they can form an army, and lay in all its stores, ammunition and provisions: they must undertake for many hundred miles, a long, dangerous, and tirefome march; by roads the most harraffing, and of almost insuperable difficulty, through a wilderness of woods and mountains, without magazines of forage, &c. or any other assistance; through a country liable to ambuscades, and all the strokes of war; through a country, whereof the French are possessed of the command; or if through any part where their personal command does not actually exist, yet where Indians, (the most dangerous enemies in such a wilderness) where the Indians, I say, are masters; and possessed of every hold and pass.

To put this matter in a still stronger light; let any one consider, whence arises the danger of marching through a fortified country; whence the danger of a general's leaving behind him, an enemy's fort or garrison, not taken.—It is that the enemy, who has possession of these, has the command of the whole country, except the sole confined spot, where the stronger army is present; can forbid

bid and restrain the inhabitants from furnishing you with such assistance as the country is otherwise capable of affording ; can, by sallies from these posts, cut off and intercept all your parties and convoys ; all your intelligence ; can cut off all communication with your magazines, and your own posts ; can perpetually harrafs and obstruct your march, and return within cover, before any superior party sent out from the main body, can reach them ; you are also always liable to surprize, even within your camp.

A march from any post where the English can *at present* form any army, and collect its stores, ammunition, provisions, carriages, &c. through the country, as at this day above circumstanced ; is, literally and precisely, in its effect, the same thing as the march here described.

While the Indians—whose chief art of war is that of forming ambuscades ; who have acquired, from practice and art, a peculiar method of secretly traversing the woods, and lying concealed in them—while the Indians, whose military skill of fighting, either single or in parties amidst these woods, renders the situation to them equivalent to fighting under cover—while the Indians thus trained, and incredibly expert in the art ;
can

can at any time sally out from the holds, fastnesses, lurking places, and ambushes, in which the country abounds, (and all which they know;) nay, even from the cover of the woods, and drive in all your small out-parties; prevent such foraging as the country will afford; intercept and obstruct your convoys; cut off your communication of intelligence, provisions, and succours; and retire again within cover, out of danger of any pursuit; and continue thus constantly to harass, and perhaps surprise, at length, your army: while they can do this, (and believe it, all this they can do and will do;) your army is to all intents and purposes, (as to the war with the Indians) marching through a country of forts and fortresses. Let any one here, compare this state of the case, with the cause and reasons of the failure of the several military expeditions on this continent, and its truth will be still more evinced.

As then no General would think of making a campaign in any country, to reach which, he must march through an enemy's fortified country; without some *previous measures* to maintain his march, and secure his retreat through such; so here (I repeat it) there are some *previous measures necessary*.

The *first* of these measures is, the settling the police of our alliance with the [Keweenaw or] Five-nation confederacy, upon a permanent, solid, and effectual basis; so as to restore and re-establish our interest with them.

The *second* is, taking possession of, and fortifying a system of advanced posts and entrepôts; viz. magazines whereat to collect stores and provisions; camps, from whence (within a reasonable distance, and by a practicable way) to make our *sortis*.

Thirdly, The securing the dominion of lake Ontario for the present; and laying a foundation for the like dominion on lakes Erie, Huron, and Michigan.

Let now any one consider the above stating of the form of the country that the English inhabit; and in which the operations of our arms must lie: Let him raise in his mind the precise idea of the native inhabitants who possess this country; and of the kind of operations by which we are, and shall be attacked; and by which we may be able to defend ourselves; Let any one, I say, by a serious attention to the above facts, form to himself that idea, which an actual

and practical knowledge of the country would give him : Let him then be told a melancholy truth, that almost all those Indians, whose friendship and alliance were once our best and securest barrier ; are now by the French debauched and alienated from us, nay even turned against us, and become the servile instruments of the French robberies, massacres, and treacherous incroachments : Let then his eye be turned upon the state of our back inhabitants, settled in a vague, unconnected, defenceless manner, up to the mountains ; to the very mouth of the dens of these savages—Any one attentively considering the above facts, will see the English colonies in not only a weak defenceless state, but exposed to, and almost at the mercy of, a very powerful enemy : Considering this, and the above facts, he would see how superficial, wild, and false an idea of the service that is, which would create a barrier by a line of forts ; a barrier that might as well pretend to cut off the bears, wolves, and foxes from coming within it, as the Indians ; a barrier that would have no more effect than so many scarecrows, unless you could actually build another Chinese wall ; and so another ; still advancing your wall-fence, as you advanced your settlements ; a barrier that would take more troops to man it, than the country inclosed within

it, would take people to cultivate it, a line of 13 or 14 hundred miles, that is at last no line at all—he would, I say, see this measure, not only impracticable, but ineffectual: Nay, were it practicable, and could it take effect; yet the insupportable expence of it, would render it impossible to be engaged in. Any one reasoning on the ideas as above stated, and knowing them to be what they really are, *facts*; would turn his thoughts on those objects, which experience, fact, and reason point out to be one part of our barrier; Namely, a real and stable alliance with the Indians; formed on such articles, as should give us the same kind of possession and command in the Indian country, the same influence in Indian affairs, as the French have. And,

First, As to that part of our barrier, and the service which is connected with, and depends on our alliance and interest with the Kenunzioni, the confederacy of the Five nations; I can only repeat what I have said formerly on this subject.

* “The original natural form, under which the Indian country lay, being that of a forest;

* This proposal, amongst others, was contained in a paper delivered by the author of this memoir, to the com-

a forest; stocked not with sheep, or oxen, or horses; not with beasts of labour and domestic animals, but only with wild beasts and game; all that the country afforded for food or raiment, must be hunted for: The Indians, therefore, would constantly be, as they were in fact, not land-workers, but hunters; not settlers, but wanderers; they would, therefore, consequently never have, as in fact they never had, any idea of property in land; they would consequently never have, as in fact they never had, any one common fixed interest; any one communion of rights and actions; any one civil union; and consequently not any government: They know no such thing as an administrative or executive power, properly so called. They allow the authority of advice, a kind of legislative authority, but there is no civil coercion; they never had any one collective, actuating power of the whole, nor any magistrate or magistrates to execute such power.

But the country now appearing under a very different form; and they, the Indians, being under very different circumstances, arising from trade, treaties, and war; be-

commissioners of all the Colonies, assembled at Albany in 1754, and transmitted to government with their minutes.

ginning to feel, rather than see; to find by experience, rather than reason, the necessity of a civil union of power and action; and that these circumstances have, in fact, for many years been formed; and have at length formed to them such a collective power.—These people are precisely in that point of circumstances, where a community, that was before only a community of society, is becoming that of government.

In all their actions; therefore, of late years, whether of treaty or war, they have resorted to some agent to actuate this power; They are not only become capable of such a general leading, but their circumstances require it. The circumstances with which they are connected, had formed them into a state; but from the circumstances of the society under which they live, they can never have amongst themselves a *stateholder*; their circumstances require and look out for some such; some such they must have; and if we do not find such for them, the French will; and are, actually attempting it. Further, as they know not, nor acknowledge any leading power, but that of authority; there can be no nominal, visible appointment of such leader; they will never appoint such within themselves; nor will they ever submit to any one appointed from without.

This

This was the mistake of the governor of Canada, which had like to have lost him all the Cashuagas two years ago.

* Therefore such person or persons only, as can acquire, or actually are in possession of, this leading power; this authority with them, can be *this agent, this leader, this STATEHOLDER.*

For this manager, this stateholder, the government hath appointed Sir William Johnson, a person not only the proper one; but precisely the very and only person that the above circumstances and nature of things pointed out: the person whose knowledge of Indians; whose influence, by the opinion the Indians have of him; whose very uncommon zeal for the interest of his country; whose integrity and bravery, will, by such measures as the Indians can really and indeed trust in, if properly supported; restore this branch of our affairs to its salutary effect.

He has, in his papers, (communicated by me,) mentioned every thing necessary, as to

This paper was drawn up, in the year 1754, not only to suggest the necessity of the office, but to recommend Colonel, since Sir William Johnson, to be the officer. It succeeded accordingly.

the management of this Indian administration: I cannot but add, as a collateral measure, that would strengthen and finally confirm such our interest amongst the Indians, the making little settlements at Oswego, Niagara*, and Niagara*, and at our other forts, by leave of the Indians!

Secondly, We should then, according to good faith and truth, leave the Indians in full and free possession of their dwelling country and hunting grounds; which the English have, in the most solemn manner, confirmed to them by treaty; and of which, by the same treaty, we have undertaken the protection: we should guaranty and protect such to them, to their use, and also all their hunting-grounds.—This part of the general scheme also, is in some degree carried into execution, by the instructions given by general Braddock to general Johnson, for his direction in his late treaty with the Indians: † which instructions were, at the desire of general Braddock and governor Shirley, drawn up by your memorialist, having been first proposed by him. This measure will be absolutely necessary to preserve these In-

* If we had done this, or would now do it, we need never suffer ourselves to think of abandoning our several distant posts, on account of the very enormous expence of maintaining them.

† Vide Appendix, N° II.

dians

dians to our alliance, as may be seen in almost every treaty held with them since the first surrender of those lands; it is also necessary to support ourselves against the western French Indians. This proposed measure will be so far from being an impediment or hurt to our interest, that the greatest advantages may be made of it, both in the means towards executing the general plan, and in the final execution of it. The uses that may be made of this measure, towards the executing of this plan, are; That while we are undertaking the protection of the Indian country and hunting grounds, we are actually becoming possessed of the command of the country. When by this mode of command for the purposes of protection, we shall be in *actual possession* of the whole of this country—and when by means of the Colonies proposed, we shall be settled on *part thereof*—the Indians will then be preserved and protected to their satisfaction; and yet cannot move to war, or hunt, nor even subsist, but as they shall maintain their alliance with the English: and yet in conjunction with us, their whole force (by these means being become infinitely greater) may be directed at any time into the heart of the enemy's country.

* This refers to a Memorial sent by me to Lord Halifax, in December 1754.

Appendix, N. II. *Thirdly,*

Thirdly, As to the administration of * Indian affairs to the southward; the first step necessary to be taken is, that there be an absolute stop put to all provincial administration; that there be no more agents, commissaries, or interpreters, appointed by, and acting under the private orders of a particular province or proprietor; from whence arise interferences and confusion, and opposition in our Indian affairs; always to the obstructing, often to the utter ruin, of the British general interest.

Instead of these, there should be one only principal commissary (who understands the language and interest, and is acquainted with the people of that nation) appointed seve-

* These Indians are the Catawbaes, Cherokees, Chickasaws, and Creeks. The Creeks are in part debauched and alienated from us by the French, and attend the French treaties constantly at the Mobile; especially the Alibamous, Cowetaes, Telapouches, and Abekaes, and are in great measure held under subjection by the French forts at Alibamous, and Tombeckba.

The Chickasaws are greatly weakened, and almost ruined by the intrigues of the French within them, and by the wars with the Chactaws, and other French Indians, being unsupported by us.

The Cherokees and Catawbaes, but ill supported by us, are constantly harrassed and warred upon by the Five Nations, at the instance of the French influence among that people.

rally

rally to each nation: this person should have under him several store-keepers and smiths.

All these principal commissaries, should be subordinate to a one general agent or superintendent*; who should be under the orders of the commander in chief only—acting by his orders and instructions, form'd on a *one general idea* of the English and Indian interest; of our alliance; and of the measures to be constantly and uniformly pursued.

As the being supplied with European goods, is to the Indians the first essential interest of their politics; is the sole and actual object of their alliance with us; and the only real and permanent motive of their attachment to us; and as, according to the custom of these people, all public transactions are executed by exchange of presents; all public friendship preserved and animated by public hospitality and liberality; the first and fundamental object of the English measures, should be to provide for these, in a regular and sufficient manner. The being able to do this, is our peculiar advantage and superiority over the French in

* *N. B.* There has been one since appointed, Mr. Stewart, a very active, intelligent, and able man.

these

these affairs; their measures are perpetually impeded and distressed, through their being unable to do this; it is the only difficulty that they have not surmounted, and cannot surmount; it is this that makes our alliance, if we did conduct it as we ought, the true and natural interest, the true and natural politics of the Indians.

There ought therefore to be concluded with these southern nations, a general alliance of friendship, and mutual defence and assistance, founded on the British general interest (not any provincial private one,) upon a one general, uniform plan: the 1st article of which should be, to do justice to all their claims; to redress all their wrongs.

2^{dly}, To maintain with them all public hospitality and friendship, by public, annual, and occasional presents; by entertaining them; and by all other usual assistance to establish a fair and just trade with them; and settle stores within their countries, or wherever is most convenient for them; with a constant supply of goods, at a settled and cheaper rate than the French do supply them.

3^{dly}, Mutually to assist each other against all attempts of the French or their Indians,

or

or any hostile attempt whatsoever upon either; constantly and faithfully to give all intelligence to each other; to mend their guns when they have occasion to go to war; to supply them at such times with ammunition; and always to send some of our people along with them if they require it, except against Indians in alliance with the English; and whenever the English call upon them to go out with them to war, that the English supply such as want them, with arms; and *all*, with provisions and ammunition; and defend and maintain their wives and children in the mean time.

This being done; a fund capable of answering the above engagements, and of constantly and faithfully executing them; and also capable of supporting an administration of Indian affairs, that may work effectually to the preserving and maintaining the British interest in such measures; should be settled on a general and permanent foundation: which may be as follows:

That the several colonies who have hitherto constantly raised monies for Indian affairs, as a private provincial service; should for the future appropriate such monies to this general fund.

That

That such Colonies as have never raised any monies for these services: should, for the future, raise and appropriate to this fund, such sums, under a quota, in proportion to the benefit received, or the harm avoided, by the barrier arising from this general alliance and administration of Indian affairs: and it becomes worthy of consideration, whether the islands in the West Indies, (their interest being inseparably connected with that of the continent,) should not bear a certain proportion of taxes towards the charge of the war.

Matters within ourselves being thus prepared and provided for;

The first step of our measure in this branch should be, establishing, (by the advice of people of the best authorities, and most knowledge of the affairs of each nation respectively,) at proper places, general magazines for this service; at the most convenient entrepôts between *marine and inland navigation* of carriage, whence lesser stores, respectively subordinate to these, might be best supplied within the Indian countries; or where is most convenient for the Indians: As for instance, one at Schenectady, or rather at Mount Johnson—one either at William's ferry on the Potomac,

or

or at Fort Cumberland on Will's creek—
one other somewhere on the Roanoak, or
James river—one other at fort Augusta, on
the Savannah.

From these general magazines, the several
national or tribe-stores should be constantly
supplied; These stores should be also public
truck-houses; and the store-keeper be also
a public truck-master: These to be fixed in
each particular nation, in such places, and in
such number as hath been usual, or will be
best for the good of the service; at each of
which there should also be a smith. The
commiffary, appointed to the affairs of each
nation, to command and superintend all the
store-keepers, truck-masters, smiths, and all
the stores; and to be constantly circuiting
through these, living always at some one of
them, and attending respectively at any of
them; wheresoever he is commanded by the
general agent, or the good of the service re-
quires: Also at all times (unless in matters
of a more public general import, when the
general agent is to attend) to negotiate and
transact all matters of business which such
nation may have to do with any other, or
with any colony; and to interpret between
the Indians of the nation he is appointed
commiffary to: and in general, within the
powers of his instructions, to do all those

matters and things as have usually been done by provincial agents or interpreters : That the store-keepers and smiths do keep constant journals, and make report to the commissary ; that the commissaries keep a regular journal of these reports, and of their own transactions, and report to the general agent ; and he likewise to keep a journal and record, and report to the commander in chief.

The order then of the public presents, the public hospitality and liberality, being settled, according to the nature of those Indians and our alliance with them ;

The method and laws of the trade with them being also settled ;

The next step to be observed ; I take entirely from the French : and it is a measure, according to my idea, absolutely necessary. Observing the want of subordination among the Indians ; the French make a number of sachems, to whom they give medals, and appoint them to preside as chiefs, leaders, counsellors, speakers, &c. : some over eight, some over ten villages, and so on as their influence extends : being easily, by presents and money, possessed of these medal-chiefs ; they thus easily acquire a more uniform and

stable management of their Indians, than the Indians even know of amongst themselves.

Let it be a standing instruction, faithfully in all and every matter, to execute and fulfil, according to the true spirit and intent, the above treaty and alliance; both as to the true interest of the Indians, and as to the forming their alliance into a firm barrier against the French, and enemy Indians.

The several people employed in Indian affairs, to have constantly in view, the scheme of uniting the several nations into a confederacy like that of the Five Nations. In order to this, that there be found out and fixed upon, some one place in the back country, whereat the general agent should hold all his general treaties and parlies with these Indians, as the French do at the Mobile; which place, upon the success of this scheme, to be the council place—as Onondaga is to the Five Nations. Let any one consider how a little republic, formed by the Welins on the river Ouäbasch, by some free and independent Indians; did greatly embarrass, and had well nigh ruined the French affairs there.

This third branch (according to my idea
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of our barrier) being thus or in some such way provided for and administered; ^{and this measure of which this might be a foundation}

The fourth, is, that, of a *system of magazines and fortified camps* as *entrepôts*; whereat, either to collect for defence; or from whence, within a reasonable distance and by a practicable way, to make our *sortis*. This branch is in part provided for: for by removing and advancing these stores, and at length, (when a proper place is found to fix them on, that would defend and command the country,) getting leave to fortify them, and to erect them into forts; the Indians are defended; and at the same time held within proper terms; and we have, within a friend's country, advanced posts or *entrepôts*, that would answer all the purposes of defensive, or offensive, operations against the enemy: and all that could be in this place said on that head, I have very minutely entered into, in that part, where I explain the nature and state of the country and its inhabitants—I will only add, the opinion which the French expressed of one post, which we once had; and of another, that they feared we were about to make.

Mr. Vaudreuil, governor of Canada, in his letter to the court, May 10, 1744, mentioning the leave which the English had got

to

to build a fortified trading house at Ockfusques, amongst the Creeks, says, "If the measure of which this might be a foundation, should be properly carried into execution, it would oblige the French to retire from their fort of Alibamôus down to the Mobile."

And again in another letter, September 17, 1744, he mentions this store-house having opened a traffick with the Chactaws — yet this the English abandoned; and the French have now a fort on each main branch of the river Mobile; one at Tombechbé, and fort Toulouse at Alibamôus.

In another letter of November, 1748, he says, "it would be very easy for the English, by means of the river Ohio, to form an entrepôt at Prudhomme to serve them as a retreat; having the nations of the Shawânâes, Cherokees, and Chickasaws, on their back to support them. From this entrepôt, it would not be difficult for them to penetrate to the Ackansas, Paris, Osâges, Padouces, and Misouris, and all the other nations of that country; if the posts and settlements of the Illinois were broke up, as they would certainly be, did the English settle and fortify at Prudhomme: not only the inhabitants of the Illinois would be lost

to us, but also the inhabitants near New Orleans, would be so greatly distressed for the want of the succours and provisions of this country, the granary to it; by loss of the benefit of the trade with that post; that it would be difficult for them to subsist; it would be impossible to maintain the expence they must live at without it; and they must be obliged to abandon the Colony: But should not matters be so bad as this; yet, were the post of the Illinois taken away, the Colony would not be able to extend itself at furthest, beyond the post of the Natches, without a very strong garrison at the post of the Ackansas; and at best that post would be too low to cover the hunting country."

When such forts are erected, the commanding officer at each fort should be a kind of comptroller on the commissary or storekeepers for that division; and should be furnished with provisions and necessary stores to make presents to, and to entertain the Indians, when they come to him; and to supply their necessities: He should, for this reason, have a right to make an order on the magazine of his division, for this purpose.

Fifthly, In other parts of our frontier, that

that are not the immediate residence and country of Indians, some other species of barrier should be thought of, of which nothing can be more effectual than a barrier Colony: But even this cannot be carried (as is hereafter explained) into execution and effect, without this previous measure of a system of entrepôts in the country between us and the enemy. *The nature of this system*, must depend on the nature of the ground, which can only be determined by a particular view, and will then immediately be best known to military men; but all mankind must know that no body of men, whether as an army, or as an emigration of Colonists, can march from one country to another, through an inhospitable wilderness, without magazines; nor with any safety, without posts; communicating amongst each other by practicable roads, to which to retire in case of accidents, repulse, or delay.

It is a fact which experience evinces the truth of, that we have always been able to outsettle the French; and have driven the Indians out of the country, more by settling than fighting; and that wherever our settlements have been wisely and completely made, the French neither by themselves, nor their dogs of war, the Indians, have been able to remove us. It is upon this fact that I found the propriety of the measure of set-

ting a barrier Colony in those parts of our frontiers, *which are not the immediate residence or hunting grounds of our Indians.* This is a measure that will be effectual; and will not only in time pay its expence, but make as great returns as any of our present Colonies do: will give a strength and unity to our dominions in North America; and give us *possession* of the country, as well as *settlements* in it. But above all this, the state and circumstances of our settlements, renders such a measure not only proper and eligible, but absolutely necessary. The English settlements, as they are at present circumstanced, are absolutely at a stand; they are settled up to the mountains; and in the mountains there is no where together, land sufficient for a settlement large enough to subsist by itself, and to defend itself, and preserve a communication with the present settlements.

If the English would advance one step further, or cover themselves where they are, it must be at once, by one large step over the mountains, with a numerous and military Colony. Where such should be settled, I do not now take upon me to say; at present I shall only point out the measure and the nature of it*, by inserting two schemes, one

* This is transcribed from a memorial sent to lord Halifax, 1754; with which memorial the two schemes here

one of Mr. Franklin's; the other of your memorialist: and if I might indulge myself with scheming, I should imagine that two such were sufficient, and only requisite and proper: one at the back of Virginia, filling up the vacant space between the Five Nations and southern confederacy, and connecting, into a one system, our barrier: The other somewhere in the Cohas on Connecticut river, or wherever best adapted to cover the four New England colonies. These, with the little settlements mentioned above in the Indian countries, completes my idea of this branch.

* *The dominion then of the lakes*, being maintained by a *British navy* of armed vessels, suited to the nature of the service, according to a plan proposed by your memorialist, in June 1754, to the commissioners met at Albany; which part of the general frontier is, according to that proposal, by order from England, and at the expence of the crown, now carried into execution; completes the whole of my idea of this frontier.

These matters being thus proposed, I do not at all enter into that point of their execution referred to were sent: they are omitted, as not now necessary—but by an oversight, the paragraph referring to them was left standing.

* Vide at the end of this.

Q⁴ cution,

cution, which is the duty of the military, as it is a matter in which the judgment of a civil man may not have its weight; nor into the manner of removing the French from their encroachments: yet I cannot but in general observe, that as the present military object of his Majesty's service in this country, is either to erect forts, or to demolish those erected by the French on his Majesty's lands; and as the way to all such lies thro' woods and wildernesses; there is a proper sphere of action peculiar to each, both for his Majesty's regular troops, and for the provincial troops of the country. The provincial forces of these countries, *as irregulars or light troops*, can, the best of any forces in the world, escort his Majesty's troops through these woods, to where their proper scene of action lies; they can also in the same manner hand up all their convoys; and would, I am persuaded, should any occasion call for their service, act with bravery and spirit: They are also fit for what may be properly called an expedition; some excursion *a la brusque*, of ten or twenty days continuance: They should therefore be employed either as a covering army, or kept with the regular army*, *in companies of light*

* This part of the plan, as it was afterward more fully explained, was adopted by the first creation of light infantry in our service in 1757.

infantry,

infantry, for escorts, scouring, and scouting parties; while the regular troops, as a main body, marching by these means without being harrassed, sustain them: while his Majesty's troops alone are fit for the various duties and services of a continued regular campaign, and for the fatigues, and perseverance, and skill, necessary in a siege.

I must also observe, that this is not proposed as a scheme to be executed all at once; but, as a general plan of operations, to be preserved and attended to in the whole; to which every part of our measures, as they shall arise into action and come upon the field, are to be referred; to which, in all seasons and at all occasions, as from time to time such shall offer or serve, our measures must be directed; and to which every individual, and every part, must conspire and co-operate to form a whole.

T. POWNALL.

** CONSIDERATIONS towards a General Plan
of Measures for the English Provinces
in America.*

THE plan of the French measures in building a line of forts round the English settlements, is :

1st. To cut the English off from all communication of alliance or trade with the Indians.

" The reason of building the fort Cadta-
raqui.

" They found it necessary to build this
fort for a bulwark against the incursions
of the Iroquois, and to interrupt the
trade of skins that these savages maintain
with the inhabitants of New York, and

* This memorial was laid before the commissioners of the several provinces met in congress at Albany, in 1754, and was adopted by them. I received by a committee their thanks, and a desire that I would suffer copies to be taken by the commissioners of each Colony, for the consideration of their respective governments. This memorial was sent to England with the rest of the papers of the congress; and the measure was immediately adopted by government, and ordered accordingly to be carried into execution in 1755; and became in its effect a decisive stroke.

" the

“ the Hollanders, who have found a new
 “ Colony there, for they furnish the savages
 “ with commodities at cheaper rates than
 “ the French of Canada.”—Father Hene-
 pin, chap. 4.

“ The scheme and design of building
 “ the fort at Niagara. Such a fort as this
 “ might easily interrupt the commerce be-
 “ twixt these people and the English and
 “ Dutch in New York. Their custom is,
 “ to carry to New York the skins of elks,
 “ beavers, and several sorts of beasts, which
 “ they hunt and seek after, for two or three
 “ hundred leagues from their own home.
 “ Now, they being obliged to pass and re-
 “ pass near the mouth of the river Niagara,
 “ we might easily stop them by fair means
 “ in time of peace, or by open force in time
 “ of war, and thus oblige them to turn
 “ their commerce on Canada.”—Chap. 7.

The design of building the fort Canani-
 stigoyan, on the Lake Superior.

“ Tis some years since Mr. Dulkut
 “ built a fort upon this Lake, where he had
 “ large magazines of all sorts of goods.
 “ That fort was called Cananistigoyan, and
 “ did considerable disservice to the English
 “ settlements in Hudson’s Bay.”

La Hontan’s Memoirs of North America, p. 214.

2dly.

2^{dly}. To make a line of circumvallation, to confine the English settlements within such bounds as the French are pleased to thus set to, the English provinces.

Many proofs might be alledged on this head, but the following is more than sufficient.

The summons of surrender sent by the French officer to the English officer, at the forks of Monongahela.

3^{dly}. To join Louisiana and Canada, to become masters of the Lakes, and make the whole Continent ONE FRENCH KINGDOM.

“ I plainly perceived by what relations I had
 “ of several particulars in different nations,
 “ that it was not a matter of great difficulty
 “ to make a considerable establishment to
 “ the south-east of the Great Lakes; and
 “ that by the conveniency of a great river
 “ called Ohio, which passes through the
 “ country of the Iroquois, a passage might
 “ be made into the great sea at Cape Florida.”—Father Henepin, chap. 4.

*Charlevoix's Journal Historie, Nov. 8th, 1721,
 vol. 6. pag. 157.*

Il n'est point dans toute la Louysiane, de lieu
 plus

plus propre pour un etablissement, que celui-la [viz. riviere Ohio,] ni ou il importe davantage d'en avoir un. — D'ailleurs, la communication avec le Canada, n'y est pas moins facile que par la riviere des Illinois, & le chemin est beaucoup plus court.

“ The Lake Ontario, or Frontenac, is easily navigable, and that with great vessels.”—Father Henepin, chap. 6.

“ It were easy to build on the sides of these Lakes, an infinite number of considerable towns, which might have communication one with another by navigation, for five hundred leagues together, and by inconceivable commerce, which would establish itself amongst them.”—Chap. 11.

In 1678, the French had a brigantine of ten tons on the Lake Ontario.—Chap. 14.

In 1679, a ship of 60 tons on Lake Erie.—Chap. 19.

The whole back country which they divide into Canada and Louifiania, they call New France.

THE ENGLISH MEASURES THEREFORE SHOULD BE,

I. To open themselves a passage to, and a communication with, the Indians.

II. To disjoin and keep separate Louisiana and Canada.

III. To throw off this yoke of forts, which the French are laying on their necks.

The only way for the English to do this, is to become masters of the Indian countries, so as to secure themselves, and to protect the Indians. Then, and then only, would the English have a real, an actual interest and alliance with the Indians.

There appears two ways of effecting this.

Either to dispute with force and arms, every pass and hold in the country with the French; and to secure such with forts and garrisons; or to become masters of the Lakes, and to acquire the dominion of that navigation.

The first considered.

The French government in Canada is a military united power; is calculated for military adventures; is founded and actually settled in such adventures; does not consist of

farms and settlements of farmers, but of forts and settlements of soldiers; is actually possessed of such passes and holds, and has secured them by forts. The undertaking such military adventures, and building and garrisoning such forts, is actually but carrying on the ordinary method and regular plan of settling their Colonies, for which both the people and government of Canada is formed. Whereas the English provinces consist of farms and farmers, and settlements of labouring, not of fighting men, who live and maintain their families by the culture of their respective settlements; cannot therefore be draughted out, and employed in military adventures, without ruining them and their families, and their settlements. Men cannot settle and fight too. They could fight as well as the French, but then must give over settling. They make the best settlements in the world, but then this fixes the necessity of their labouring on a particular spot; whereas military adventures require them to be unsettled, ready to march, and be employed at any place, at any time. As thus the English provinces are not in their constituents, so neither are they in their government, formed for military service: THEY HAVE NO MILITARY ESTABLISHMENT, NO part of them selected, trained and kept a constant standing force (as the French have) for this service alone. The French therefore
 must always

always will be, as they have hitherto been, masters in the field. They will beat us at the dispute of every pass; were they even to set out with us at this moment. What they have they can keep; what we had, they have taken part from us, and can take the rest when they will. But as they are now situated, have forts and garrisons in almost every pass of the country, they can, at a moment's warning, draw together an army, well served with artillery, in any part of the Back Continent; while the English, if they could raise one in a year or two's time, could not march it (as they are now circumstanced) to any place where it was wanted, while the necessity of the service continued. The measure therefore most reasonable and most likely to succeed, is, *to set the first step* where we have already a footing. We have in the Indian country, a fort, a garrison, **A PORT**; under the defence of this, **THE ENGLISH MAY BUILD A FLEET** that shall,

First, Open a passage and communication to the Indians:

Second, That may establish a trade of the most easy management, and the greatest profit:

Third, That would divide and cut off Louisiana from Canada.

I. This

1. This is a pass the French are not possessed of; a pass that all the forts they have built are of no use to the defence of; a pass that the English, in their own way, in which they have always been superior to the French, could dispute with the French, and beat them out of; a pass where our proper force could be united, and where no artifice of the French could divide and dissipate it, &c. &c.

2. The navigation of the Lakes would establish a mart where the Indians of every nation would resort.

"In summer time, several northern nations come to hunt and fish in these parts [he here speaks of the Lake Superior] and bring with them the beaver skins they have got in the winter, in order to truck with the Coureurs de Bois, who do not fail to meet them there every year."

Labontain's Memoirs of North America, pag. 214.

If the trade of the Hudson's Bay company, which is, as it were, only in the skirts of the great Continent, is found so beneficial, what might not this be, that is in the very heart of it?

The back settlements will, in time, want a vent for their produce.

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This

This trade would open to them such a vent.

1st and 2^d. Being masters of this pass, and this trade, would give the English the command of the Indian country, and consequently of the Indians, which is the only way to preserve their fidelity and alliance: 'tis the only way to enable them to continue our friends.

The example of the navigation and trade of the Caspian Lake, may not only be a rule of experience, but is also a most encouraging example.

Many other reasons for; and consequences of, this measure might be offered; but this paper does not mean to give reasons, but to propose considerations.

3. If the English were masters of the Lakes, and had consequently the friendship of the Indians, the French could have little or no communication between Louisiana and Canada; and no communication, no effectual one, with most of the forts they have built up and down the country, &c. &c.

Upon the whole, this measure is adapted to the nature of the strength of the provinces

res who are maritime, and numbers of whose people are mariners ; take into this denomination boatmen, and perhaps one-third or a quarter at least, may be such.

The navigation of the sea and rivers on one side, and of the lakes on the other, would form these PROVINCES INTO A KINGDOM, equal, if not superior, to the kingdoms of New France.

All that can be done at present, is, under the defence of Fort Oswego, to secure the dominion of the Lake Ontario ; and in the mean while, to secure by forts, the passes upon the frontiers of our own settlements, (distinguish here the frontiers of the settlements from the frontiers of the provinces) and those of our allies, to protect ourselves and them.

This being done, we should attempt and acquire (for it is in our power) the dominion of all the Lakes, (perhaps the Lake Superior excepted.) New Hampshire, Massachusetts, and Rhode Island, might be allotted to Lake Champlain ; Connecticut, New York and New Jersey, to Lake Ontario ; Pennsylvania, Maryland, Virginia, and perhaps the Carolinas too, to the Lakes Erie, Illinois, &c.

" If the English would pursue their
 " measures to the best advantage, they
 " ought to engage the Isonontowanes, [the
 " Senekas,] or the Goyogowanes, [Cayuga,]
 " to go and settle upon the banks of the
 " Lake Erie, the mouth of the river Conde;
 " and at the same time, they ought to build
 " a fort there, with some long barques and
 " brigantines; for this is the most conve-
 " nient and advantageous post of all that
 " country, and that for an infinity of rea-
 " sons, which I am obliged to conceal.

" Besides this fort, they should build
 " another at the mouth of the river De
 " François, and then it would be absolutely
 " impossible for the Coureurs de Bois, to
 " reach the Lakes."

La Hontain, page 273.

Albany, T. POWNALL.

June 1754.

N^o IX.

THE ideas of the service contained in the paper above, lead by fair consequence to the following proposition—
 “* That after the English had been repeatedly disappointed in their attempts to penetrate the country by the way of Crown-point and lake Champlain, and had lost Oswego and the command of the lake Ontario; considering the reason there was also to expect the defection of the Indians in consequence thereof; there remained no other alternative, but either to make peace, *or to change the object of the war*, by making a direct attack up the river St. Lawrence upon Quebec itself; urged to a radical destruction of Canada.” The writer of these papers came over to England in the latter end of the year 1756, to propose and state these measures, nearly in the same form as was afterwards repeated by the paper that follows; particularly marking *the necessity of two fleets, and two armies*: One army destined for the attack; the other under orders to invest Canada, by taking post somewhere between Albany and Montreal, so as to cover the English Colonies: One

* Letter to Lord Halifax, 1756.

fleet to escort and convoy the army up the river St. Lawrence; and the other to cover and protect the sea-line of the Colonies. The object was adopted. Why nothing was done in the year 1757, and why no more was done in the year 1758, than the taking of Louisbourg, will be explained on a future occasion; the ideas contained in the following paper lead to the rest.

IDEA of the SERVICE in AMERICA, for the year 1759.

Boston, Dec. 5th, 1758.

IF the point disputed between us and the French, be determinately and precisely understood, the manner of conducting it may be soon fixed: If we are still, as we were at the first breaking out of the war, disputing about a boundary line, and for the possession of such posts, communications, and passes, as may be a *foundation* to our possessions of a *future dominion* in America, we are still engaged in a petty skirmishing war: from the state of which it was always plain, and experience now proves it, that we shall ever be inferior, and beaten by the French: for the French have long ago, by a continued system of measures, been taking possession of such posts as hath given them that foundation;

foundation: They have already established that which we must fight to establish, inch by inch.

If we have changed the point, and brought it to its true issue, its natural crisis; whether we, as provinces of Great Britain, or Canada as the province of France, shall be superior in America; then the service to be done, is a general invasion of Canada, in conjunction with the European troops and fleet; then is our natural strength employed, and we must consequently be as naturally superior.

This being fixed, the next point is, where the real attack must be made. The same reasons that show the necessity of such a general attack, show that it will *never effectually be carried on, over land*; for, if it could, Canada might as effectually be destroyed, by the petty skirmishing war, for posts, passes, &c. as by a general invasion. But experience has now shown, (what reason might have seen some time ago) that, as the state of the service is circumstanced, between us and the French, that cannot be; the possession which the enemy has of the posts of strength, the carrying-places, passes, water communications, and roads; by forts, redoubts, and their Indians, would render the passage to

Canada by land, the * work of a campaign, even with success; but finally also, the success doubtful. The road to Quebec, up St. Lawrence river, we possess by *the superiority of our marine navigation*. There is neither danger nor difficulty, nor do I see how there can be any opposition, to hinder the fleet getting up to the island of Orleans; and a superior army in possession of that, may, by proper measures, command the rest of the way to Quebec †. If our army can once set down before Quebec, it must take it. If Quebec be taken, the capitulation may at least strip Canada of all the regulars; after which the inhabitants might possibly be induced to surrender.

If this attack be determined, the fleet of transports will be escorted up the river by the frigates, bombs, and other small vessels of war. *But while our forces are all up the river, a very strong squadron seems necessary to cover the maritime parts of our own Colonies.*

I am told, that many French vessels proceed, early in spring, to the bay of Gaspee, before the river St. Lawrence is navigable;

* The going to take possession of the country in 1760, after Quebec had been taken in 1759, proved *the work of a campaign*.

† Did not the event literally justify this?

and

and lie there till the river breaks up, then slip up without danger, when for some time it would be almost impossible to cross the gulph; for as soon as the ice breaks up in the river, it is presently clear; but the ice embayed in the gulph, swims about for a long time, and renders the navigation of that gulph extremely dangerous, long after the river may be navigated with safety. If this fact be true, it seems necessary, that two or three of the ships of war should proceed to Gaspee, before the river St. Lawrence breaks up, in order to prevent any succours being sent up the river in spring.

But although this attempt on Quebec, by way of St. Lawrence river, may be the only real, and will be the only effectual attack on Canada: yet one other, if not two false attacks will be necessary; one by way of lake Champlain; the other by way of lake Ontario. That by way of lake Champlain may, as far as Crown-point, be offensive; and should then change into a defensive measure, by taking strong post there, with a garrison which will effectually check the enemy at that gate of the country; and from whence continual scouting parties, to harraß the settlements, and beat up the quarters of the enemy, should be sent down the lake. As there are now so many regiments at Albany,

Sabine's Bay, fort Edward, and the posts on the river; the taking fort Carillon, at Ticonderoga, and of consequence fort St. Frederick at Crown-point, might be effected with these, together with such provincials as shall be thought necessary; (if not in winter yet) before the time for embarking for St. Lawrence river approaches: and this time appears the more proper, as it may possibly be before the French can sufficiently relieve it. The reason that makes me think that this should be attempted is, that the possession of this post is an effectual investing of Canada in that quarter: The reason why I think no more should be attempted is, that it *would prove unsuccessful*, and that all the labour and expence that is employed in the attempt is lost as soon as it is given over.

As we have now so good an entrepôt towards lake Ontario, as the fort at the Oneida carrying-place; it is now in our power to attempt acting on that lake, the want of this rendered all attempts there before, abortive and unsupportable. An appearance of an attack on Canada by that way, must greatly alarm the enemy at Montreal; and, though I do verily believe we shall never succeed to make an effectual irruption that way, *until Quebec be taken*; yet as whatever shall be done on that lake towards such an attempt,

attempt, viz. taking post at some part on the lake, and building vessels, will have a collateral effect; even supposing the first to prove abortive, that will prove a most essential point of service, namely, the gaining dominion of the navigation of the lake. So that should nothing else be done, yet what is done, and what is spent, will not be thrown away; but remain a chief corner-stone in the foundation of the British dominion in America:—Besides, if we remain, during the campaign, superior in the lake; the enemies communication with their southern posts is cut off; their connection with the Indians of the Five Nations interrupted; and we may, in the course of chances, possibly take Niagara. This amphibious kind of service seems adapted to the provincials, especially those of New York and Rhode Island, accustomed to privateering and batteauing: but these should be supported by good garrisons of regulars, in such posts as may be found necessary to be taken at the entrepôt on the Oneida carrying-place, and at the port it shall be found necessary to possess on the lake.

As to the number of regular troops necessary for the attack on Québec, I have not presumed to speak, for I am no judge; but a number of provincials will certainly be necessary, and these such as are used to the water, and marine navigation; for such will be

be of the most essential service in the passage of the army from the lower end of the Isle of Orleans to Quebec, where most of the difficulty and danger will lie. Now for this service, none can be so well adapted as the people of the province of Massachusetts Bay; as they are all, in the southern parts, whalers and fishermen. After the troops are landed near Quebec, numbers will be wanted, such as are used to carrying heavy lumber and timber, &c. through the woods. Now for this service, none can be so well adapted as the inhabitants of New Hampshire, and the county of York, in the province of Massachusetts Bay, who are so perfectly accustomed to the masting service, that is, fetching the great masts down from the woods; besides, the people of Massachusetts in the counties of Hampshire, Worcester and York, are the best wood hunters in America; and would therefore (disposed in proper outposts,) be the best adapted to the keeping the camp before Quebec, quiet from the enemies partizans and Indians; or perhaps in breaking up the enemies settlements in the country, while the regulars were taking their towns. For this purpose also, I should think, if about a hundred thorough wood hunters, properly officered, could be obtained in the county of York; a scout of such might make an attempt upon the settlements by way of Chaudier river. Such a scout,

to

to the purposes of alarming and keeping the enemy in abeyance there, or perhaps breaking up the settlements; is practicable, and, I think, with early notice, such a scout may be obtained.

These are the services our people are fitted for; and therefore, as far as relate to the people of the province his Majesty has committed to my care, I can be positive, that if his Majesty's General would have a real and effectual service from them, they must be employed in such. Take those who live inland and carry them to sea; or those who have lived by the sea, and march them through the woods; they will be useless and sickly. Employ each in their proper element: let those who are naturally connected with Hudson's river, and acquainted with inland navigation, be employed up in the back country, and lakes to the westward; and those who border on the sea, and are used to marine navigation, be employed in the service that goes by sea to the eastward; and then for every ten men on paper, there will be ten men's real service.

I have in this paper confined my idea to the invasion of Canada, and the attacks on that country; and so have said nothing of that very necessary service, the erecting a
fort

fort at Penobscot river, which on different occasions I have before repeatedly expressed.

I have confined my idea to Canada, and have therefore said nothing of fort Du Quesne; but if I had extended my idea to that part, I should have endeavoured to consider how far, or not, it might be practicable to break up the enemies settlements on the Ohio, and the Illinois country; founded on this opinion of Mr. Vaudreuil himself, in his letter to his court, when governor of Louisiana, November 1748.—“It would be
 “very easy for the English, by means of
 “the river Ohio, to form an entrepôt at
 “Prudhomme, to serve them as a retreat,
 “having the nations of the Shawanese,
 “Cherokees and Chickasaws on their back
 “and to support them. From this entre-
 “pôt it would not be difficult to penetrate
 “to the Akanfacs, Panis, Osagae, Padouces,
 “and Missouri, and all the Ohio nations
 “of that country, if the posts and settle-
 “ments of the Illinois were broken up, as
 “they would certainly be, did the English
 “settle and fortify at Prudhomme; not
 “only the inhabitants of the Illinois would
 “be lost to us, but also the inhabitants
 “near New Orleans would be so greatly
 “distressed for want of the succours and
 “provisions of this country, the granary to

“it, “if the mea- “tues

“or, by the loss of the trade with that post,
 “that it would be difficult for them to
 “subsist; it would be impossible to main-
 “tain the expence they must live at with-
 “out it, and they must be obliged to
 “abandon the colony: But should not
 “matters be so bad as this, yet, were the
 “posts of the Illinois taken away, the
 “colony would not be able to extend itself
 “at furthest beyond the post of the Natches,
 “without a very strong garrison at the post
 “of Akanfas, and at best that post would
 “be too low to cover the hunting ground.”

I should have extended my idea, to an
 attempt by a West India Squadron with
 troops raised in the islands on Mobile, for
 nothing would more embarrass the enemy's
 Indian affairs in Louisiana, than the taking
 this place, the grand rendezvous at all their
 treaties—For they support a garrison here;
 amongst other reasons, for this also, (as Mr.
 Vaudreuil, in one of his letters to the court,
 says) “to influence the Indians, as there
 “are at our meetings and treaties, held
 “here annually with the Indians, some-
 “times 2, sometimes 3,000 Indians pre-
 “sent.”

I should also have recommended the taking
 post at Ockfusqué amongst the Creeks, be-
 cause, says Mr. Vaudreuil, “If the mea-
 sures

measures of which this might be a foundation, should be properly carried into execution by the English, it would oblige the French to retire from their fort at Alibamôus down to the Mobile.

T. BOWNALL.

To the Right Honourable

Mr. Secretary Pitt.

In confirmation of the opinion here given of the measures proposed, and of the plan laid down; the reader is here desired to refer to the events of the year 1759 in America.

Quebec was taken by general Townshend, the moment that the army was enabled to set down before it, by the greatly hazarded, and gloriously successful stroke of general Wolfe.

The operations of the army under general Amherst, could not, by all the skill and determined perseverance of that excellent officer, be pushed further than Crown-point, and there became defensive by fortifying that point.

The operations up the Mohawks river, and on lake Ontario, were carried just to that effect which opened the way for the

next

next campaign, 1760, when general Amherst went that way to take possession of Canada.

Amidst these objects, I mention the taking possession of the Penobscot country, and the building a fort there by * the governor of the Massachusetts province, merely as it was proposed in the paper above; as the proposal was adopted by the ministers at that time; and as the execution received the approbation of his Majesty, signified by Mr. Pitt, his minister.

The whole fleet was taken up the river St. Lawrence; where, as general Wolfe expressly declares, it was a part of the force least adapted to the object: the sea-line of the colonies was left uncovered and open. If the French had had sense enough to have sent two ships of the line, with a frigate or two, and one or two bomb-ketches, they might have burnt Halifax, Boston, New York, or Philadelphia, without interruption; or even if such measure had not been carried to that degree of success, they might have raised such an alarm as should have broken up some of our active, offensive operations, in order to come to the defence of this sea-line;

Vol. II. S and
The operation of Pownall's river
and on Lake Ontario, were carried just
the effect which opened the way for the
next

and, perhaps, thus the whole of the operations of 1759 have been disconcerted and defeated. To enquire why this was done, would at this time become a mere criticism; for as, by good luck, no such accident happened, it is right that success should justify every measure.

To give reasons why nothing was attempted towards the quarters of Louisiana at that time, will be the solution of some future discussion.

The following Memorial, sent in the same line of communication, and written on the supposition, that if France still retained certain dominions thus bounded in America, the British Colonies would be adequately protected, and the British Dominion secured to Great Britain—seems at this time not improper to follow the above.

And next, as the possession of the Indian alliance is of the utmost consequence—it should be precisely determined what are the possessions and rights of the nations and tribes in alliance with the English; and such by actual description but under the British protection: For by mistaking this point, we may, as has been done, bottom our cause on a four-

and, perhaps, thus the whole of the opera-
tions of 1759 have been disconcerted and
defeated. To enquire why this was done,

N^o X.

MEMORIAL.

*Observations on a line of demarkation between
the English and French in North America,
so far as it respects that continent only.*

IF the English policy does not extend to
the obtaining and preserving the intire
possession of Canada and Louisiana, 'twill
consider by what line it shall circumscribe it
in those parts.

Under this head it will be previously ne-
cessary, that the French fix precisely what
are the boundaries between Louisiana and
Canada, which they divided about the year
1752.

And next, as the possession of the Indian
alliance is of the utmost consequence—it
should be precisely determined what are the
possessions and rights of the nations and
tribes in alliance with the English; and such
by actual description put under the British
protection: For by mistaking this point, we
may, as has been done, bottom our cause on

a foundation which cannot support itself, and neglect one that perhaps promises less, but must really support it.

If the waters of the lakes, of St. Lawrence and Mississippi rivers, are to be the bounds between the British and the French rights; 'twill be of consequence, in a very precise and determinate manner to specify what is meant by such: For the French pretend to claim no other; but by that claim extend their pretensions to the head of every water which runs into either of these; and by that pretence claim all the north and north-west of Nova Scotia and New England, Lake George and Wood Creek, the carrying-place at the head of the Mohawks river, all the Ohio, Cherokee, and other rivers which on the back of the Carolinas run into the Mississippi. 'Tis therefore needless here to say, that the enemy must be bounded by some determinate *line of demarkation*.

Wherever and howsoever such shall be fixed, such line will consist of four different parts, the rights of which are founded each on very different, and the interest and policy of which must depend on very different reasonings.

As

As this method of considering the line of the British empire in America is absolutely necessary to a just idea whereon to treat about it, this paper presumes to point out *the parts* of said line, and to suggest some observations on the *principle* on which each part is founded.

I. The first part consists of the British rights in Hudson's bay, and the Labradore coast on the Atlantic.

And here, supposing the British rights to be settled and undisturbed in Hudson's bay, it may be of use to stipulate some acts of trade; that, while the company purchase the French furs, the French may not be enabled to supply their Indian stores with English European goods, on Lake Superior, &c. without which it would be difficult for them to maintain their Indian alliances with the Assenipoels, Algonkins, Otawawaes, &c. in those parts: if therefore an English store, to be supplied with the company's goods, was by way of cession fixed on Lake Superior, or river Michipocoton, (where now, as is said, the French have a store) it would have a proper effect to maintain a ballance in the Indian interest, and might lead, according to French policy, to much higher purposes. But though this be a matter more to be

wished, than likely to be obtained and effected; yet it may not have been improper to have suggested it.

As the enemy obtained of Britain a right to fish, and cure their fish on the north parts of Newfoundland, as a cession of no consequence to the English; so will they, no doubt, endeavour at some such acquisition, by concession of a right to do the same on the Labradore coast. They know the worth of this; they know the fishery continues to lessen on the banks and to the southward; they know the best and most plentiful is to the northward, and will hope, from our inexperience of this truth, to keep still to the northward of us. The Labradore coast as much exceeds the north of Newfoundland, as that does the southward part, for plenty of fish. This coast is not that inhospitable, inaccessible land of terrors, that it has been represented; the climate, like all others un- cleared of its wood and uncultivated, has its extremes; but is at the same time the most delightful in its mean that can be conceived. It not only abounds with the finest harbours, but, like all the eastern shore of the north part of North America, is so hemm'd in with islands, that vessels may sail within such the whole length of it, as within a harbour; where there is an inexhaustible source of fish and peltry, and

and they add also of naval stores, but this not certain. The chart sent herewith, done by, and from the observations of an adventurer from Boston, will give an idea of it.

II. The next part of the line is that which must divide New England and Nova Scotia from Canada. And although there can be no doubt of the British right extending up to the river St. Lawrence, yet possibly the following observation may not be altogether useless, in case the intire possession of such right may be in some measure receded from.

A river, and all the navigable waters which communicate with it, if possessed by people the least conversant in commerce, become by a consequential intercommunication, the *natural basis of a one interest*; and as the two sides of such a river cannot, in the nature of things, be divided into two interests; so it may be seen that a river was never yet a boundary between two commercial nations, nor never could be. 'Tis therefore so far from being a natural boundary to such, that it is the most unnatural boundary that can be devised, and the most impracticable to attempt to divide two nations in that very point where they are the most intimately connected.

connected. Let politics endeavour to divide the two sides of such a river between two people; yet they will live under and in one and the same interest; and consequently, whichever side is the predominant interest, that will lead and govern the other also. The river St. Laurence being the very seat of the French settlements, and so far remote from and unconnected with those of the present English ents; the British subjects living on St. Laurence river, (should any ever settle there, and on the navigable waters that communicate with it) will, so long as the French interest predominates there, be bad subjects to the British crown; which disaffection and disadvantage will extend itself into New England and Nova Scotia, as far as the intercommunication of these borderers extends. Moreover, when there is a natural boundary, the benefit and use of the protection of their own government is neither felt, sought for, nor depended on by the borderers. — On the contrary, if any artificial boundary be all that divides the two governments, the state of the borderers, in that case, creates in them a natural jealousy and animosity against each other; and as there is no defence in the natural state of the boundary, all the defence and support of their interest, that they hope for, or depend on, is in the protection of the government; and consequently borderers,

terests, in such case, are always the best affected, and most beneficial subjects; and possibly the policy of this principle may be better applied to the borders of dependent provinces and Colonies, than to any other members of a government.

There is indeed one very essential objection to this idea of the line, which is, That if any part of the continent on this side the waters be divided between the British and French, the French, by the ascendancy which they have gained over the Indians, will draw the Indians to live on their part, and have them always ready to pour down upon us, as a continual check and scourge: but possibly, some such stipulation as follows being demanded, might not only put an effectual stop to such proceedings, but obviate, with great propriety, such objections as will be pressed upon us, on account of seizing the French vessels prior to the declaration of war; namely, That the French shall be answerable for their Indian allies, which dwell on their lands; and that if any Indian nation or tribe, ally to the French, (as they can be fitted out by none but the French) shall commit hostilities against any of the English Colonies, vessels with letters of marque and reprisal, shall be justified in making reprisals on the vessels and trade belonging

belonging to the subjects of the French Colonies; and *vice versa*.

III. The next part of said line, is that which must divide New York and Pennsylvania, with the British Indian allies, from Canada and the upper part of Louisiana.

The rights and policy of this line is so connected with the rights of the Five Nations, and our alliance with them, (which has been explained in the Considerations of the state of the service in 1755, already presented, and in a paper stating the nature of the British Indian claim, presented in 1757) that it were needless to repeat such at this time, especially as the reasonings on that head must much exceed the bounds of this paper.

IV. The fourth part of the line of demarkation may, from the reasoning above, be supposed to begin sixty miles due south from Canahoga, alias Canaoaga, and extends to Florida.

The papers above referred to, afford many and very particular observations, from the reasonings of the French government and ministry, as to the posts and passes in said tract, to which this paper would, on this

head, refer itself: But if the main channel of the river Mississippi is not to be the proper line required—in this place occurs the enquiry, Whether there be in the nature of the country, any thing which, forming two different interests, may become the dividing line natural to such. If on any navigable river there be such falls as *divide and absolutely disjoin the marine navigation from the Inland or Mediterranean navigation*, the intercommunion or interest of those two become different; divided each, and each bounded by said falls: as this division of marine and inland navigation, on such interrupted waters is a real existing fact, not only in America, but in every part of the world where the same circumstances are found, it were needless further to explain the reason. If therefore the English cannot expect to share the marine navigation of Mississippi with the French; and the marine navigation of the French is cut off by the falls from the inland navigation; it appears, that these two interests are divided naturally by a line drawn across the falls of the several rivers which run into the Mississippi: and if the settlements of the English be found in the one region, and those of the French on the other; this line will naturally, and therefore permanently, divide the interest of these two nations, and so be the best line of peace: and

and as such line may be a natural division to their interests in these parts; so the several falls on said rivers may prove to be the properest posts for the artificial line of defence. Let it be supposed, as an example only of this reasoning, (for this paper does not presume to point out the specific line) that a line run from Canahôga on lake Erie, by the falls of the Onäback, Ohio, Cherokee rivers, &c. and so directly to the north-west corner of the Spanish rights of Pensacola, with forts at proper posts thereon; and there will be presented an idea of the sort of line here meant.

The reason of beginning this line at Canahôga, depends on the reasonings in the papers above referred to, on the third article.

By the uniting the English line with that of the Spaniard, any French encroachments may lead to the uniting those nations in repelling such, as a common cause; or at least make them reciprocally guaranty for the preservation of it.

This paper does not enter into particular descriptions of cases, nor reasonings of the effects of such line of demarkation; but confines

fines itself solely to the *principles* on which the proposals are suggested.

N. B. The same principles may be referred to the line between New England, Nova Scotia, and Canada.

T. POWNALL.

Boston, Oct. 22d.

1759.

The reason of beginning this line at Canahoga, depends on the reasonings in the papers above referred to, on the third article.

By the uniting the English line with that of the Spaniards, any French encroachments may lead to the uniting those nations in rebellion such, as a common cause; or at least make them reciprocally guaranty for the preservation of it.

This paper does not enter into particular descriptions of cases, nor reasonings of the effects of such line of demarkation; but concludes

N. XI.

The following Instructions, (referred to in vol. 1st, and in the Appendix) drawn up by T. POWNALL, and recommended to General BRADDOCK, were, by that Officer, sent to Col. JOHNSON.

YOU are to produce to the Indians of the Six Nations, a deed which will be delivered to you by Col. Shirley, and in my name, to recite to them as follows.

Whereas it appears, by a treaty of the Five Nations, made at Albany on the nineteenth day of July 1701, with John Nansan, Esq; Lt. Governor of New York, That the said Five Nations did put all their Beaver Hunt, which they won with the sword, then eighty years ago, *under the protection of the King of England*, to be guarantied to them and their use. And it also appearing, by a deed executed in the year 1726, between the Three Nations Cayouges, Senecaes, and Onondagaes, and the then Governor of New York, that the said Three Nations did then surrender all the lands lying and being, sixty miles distance, taken directly

directly from the waters into the country, beginning from a creek called Canahouqué, on the lake Oswego, extending along the said lake to the falls of O'niagara, and along the lake Cataraquis to Sodons creek, and from Sodons creek, to the hill called Tegechunckferode, and from thence to the creek called Cayhunnage, as is particularly described in said deed, including all the castles of the aforesaid Three Nations, with all the rivers, creeks, and lakes within the said limits, *to be protected and defended by the King of Great Britain, his heirs and successors for ever, to and for the use of them the said Indians, their heirs and successors for ever.*

And it appearing that the French have, from time to time, by fraud and violence, built strong forts within the limits of the said lands, contrary to the covenant-chain of the said deed and treaties: you are in my name, to assure the said nations; that I am come, by his Majesty's order, to destroy all the said forts, and to build such others, *as shall protect and secure the said lands to them, their heirs and successors for ever, according to the intent and spirit of the said treaty, and do therefore call upon them to take up the hatchet, and come and take possession of their own lands.*

N° XII.

*Considerations on a Paper Currency, by
Tench Francis, Esq; Attorney-General
of the Province of Pennsylvania.*

AL L value is given to things, for their fitness or power to answer or procure the necessary conveniencies or pleasures of human life.

This value may be considered as absolute or relative. Absolute value terminates in our esteem of any thing, without referring to any other; relative is that which it has compared with another.

The latter only I have occasion to treat of.

Men have power to discover qualities in a thing which give it value. They can by laws, customs, or fashions greatly encrease that value; yet, to know or fix its worth or price, compared with other things *à priori*,

ori, has always been found beyond their reach and capacity.

This is owing to an inability to foresee, estimate, and govern exactly all the points and circumstances, on which the value of things turns; which are such as are in action, or following the nature and order of things in general, may be foreseen and judged of with some certainty; or which consist of the passions, prejudices, and misapprehensions of mankind, whose number and influences we cannot rate or calculate.

From the *natural* state and order of things I think it may be affirmed, that the worth or price of any thing will always be, as the quantity and uses amongst mankind; as the uses directly, and as the quantity reciprocally or inversely. Use is the sole cause of value, and value the necessary effect of use. Abating these distinctions of cause and effect, useless and worthless, are synonymous terms. Every man must agree, that if you add to a cause, you must increase the effect; subtract from it, and the contrary effect must follow. Let the quantity of any thing be as 20, and the uses as 20, and let it have a value; let the uses be increased to 30, without enlarging the quantity; it is plain, the equal

proportion that every man can enjoy will be as 20 divided by 30, $\frac{2}{3}$ ds only. But this being less by $\frac{1}{3}$ than each man requires, the demand for it, and consequently the value, must rise. Subtract 10 from the uses when 20, and then under an equal distribution, each shall have double the value he wants, which must lessen the demand, and the value dependent upon it.

Governing the uses is one of the rational powers, that men have over the value of things.

Experience teaches the meanest understanding, that price depends on quantity, and that they are to each other inversely, or the more of one the less the other. Water is as necessary as any thing, and a diamond perhaps as little; yet the superfluous plenty of one has rendered it of no worth in most places, and the scarcity of the other has carried it to an extravagant price.

Limiting the quantity is another rational power men have over the value of things, and I do not know a third.

From hence it appears, that increasing the uses, and lessening the quantity; and lessening the uses, and increasing the quantity; must

* N.B. The demand being a given or fixed quantity, always

always have the same influence upon the rates and prices of things. Therefore, whenever I shew the effect of one, for brevity's sake, let it be understood, that I suppose the same consequence will attend the other respectively.

Although I affirm, that variation in quantity or use, shall cause a change in the price of a thing, yet I do not say, that this change shall be in proportion equal to the variation in the quantity or use; for I think the contrary. To instance in quantity, let it be in any thing as 30, and let the use be as 30, and it shall then have a mean value. The use unchanged, let the quantity be at one time as 20, at another 40. Whoever considers the prevalence of men's appetites for a scarce commodity, under the dreads and apprehensions of wanting it, with their different abilities to procure it, on one hand, and their great contempt of useless excess on the other, must agree it is more than probable, that the difference between the means and the extremes shall not be the same in the prices, as in the quantities. Merchants, by experience, have found the truth of what I advance. I think they have observed, that lessening a commodity one third from the mean quantity, *ceteris paribus*, nearly doubles the value;

lue; adding a third, subtracts one half from it; and that by further increasing or diminishing the quantity, these disproportions between the quantity and prices vastly increase.

It is extremely difficult, if not impossible, to investigate these proportions mathematically; but events springing from use and experience have equal certainty in them; and to all practical purposes are as much to be relied and depended upon.

It is further worth observation, that whatever fluctuates much in quantity, and consequently in worth, will sink beneath its mean value.

Suppose the quantity of any thing produced in every 50 years be exactly the same: let the annual product be as one, answerable to the necessities of mankind; then the value in each year shall be as one, and the whole equal to 50. But if the quantity of the annual product fluctuates, there will be annual fluctuations in the value; but as the proportions of the decrease of value, from experience above stated, will be greater than the proportions of the increase of value, this fluctuation will cause a deficiency in the mean value, which deficiency will always be in proportion to the greatness and quickness of

of the changes. This, I presume, is occasioned by the desire of mankind in general to rest on certainty, rather than rely on what is fluctuating and inconstant, though they should expect gain equal to the risque, and by the low circumstances of the majority of men, whose fortunes, in all prudence, direct to the first, rather than the latter. The case of insurances is an evident proof of this remark. If the insurers gain, which I think must be admitted, then they receive a premium beyond the value of the risque, and this again the insured pay for *certainty* against *contingent losses*.

These few rules of estimating the value of things, well applied, will, I presume, shew when it is convenient to introduce paper-money into a country, and when it will prove hurtful; what are its advantages and inconveniencies, general and particular, when introduced; of what great importance it is to prevent an excess in quantity, and to extend the uses; and nearly what its value will be in any given state.

If a nation has a quantity of money equal to its commerce, the lands, commodities, and labour of the people shall bear a middle price. This state is the best, and tends most to enrich the people, and make their happiness.

happiness lasting * If they should mint paper to pass for money, the increase of quantity in the former will lessen the value of the latter, will raise the price of lands and rents, and make the labour of such a people, and the commodities, be rated higher than in other places. Men's fortunes will rise in nominal, not real value; from whence idleness, expence and poverty shall follow. Under these circumstances, their real money, instead of their commodities, shall be exported from them. Here the paper will be their bane and destruction. But if their commerce, or uses of money, exceed the quantity of it; their lands, labour, and commodities shall sink beneath their worth in other countries. Few purchasers of lands will be found in regard to the superior profit that must attend the use of money in trade: the wealthy merchant shall be at the head of affairs; with few competitions; he shall be able to grind down the farmer in the sale of his commodities, and, when those fail to support him, in the purchase of his lands, the artisan's labour shall be depreciated by the merchant who exports it, or the needy farmer that uses it. The wealthy only shall accumulate riches, the commonwealth shall decline, and in time farmers and artisans

* These sensible propositions, applied in this paper to the state of a province, are well worthy the attention of the greatest states.

must desert the place for another, where their labour shall be better rewarded. Here the use of paper-money will shake off the fetters and clogs of the poor. Merchants will multiply; they will raise the price of labour, and of the fruits of the earth, and thereby the value of lands. An equal distribution of gain and profit shall succeed, and destroy the partial accumulations of wealth.

I think these marks, taken from the value of lands, labour, and commodities, compared with their worth in other countries, will be found the only infallible rules to judge of an equality, excess, or defect of money in any place wheresoever; and consequently will, at all times, unerringly shew the necessity of increasing coins, or the contrary. Had a neighbouring province well understood and weighed these points, they had not created a paper credit far exceeding all their uses for money, when they were able to supply themselves with gold equal to their trade; nor at the same time have dammed up so many uses for it, which now cover them with clouds and confusion, that no man can see his way through. The best method they can use, is to sink it as fast as possible, and not let their fund lie in Britain at an interest less than 4 per cent. when it is worth 6 in their own country, and their

paper passes 50 per cent. less than the nominal value. But to return: when it is found necessary to add *paper-money* to the coin of any country; to support its value, ought to be the main and principal view. This will turn upon the FUND, the USES, and the QUANTITY.

All value arising from the use, I beg leave to call *extrinsic*.

Having shewn that paper-money acquires its extrinsic value from the uses, which uses apparently may be encreased or diminished; I think it would be needless, and mispending the reader's time, to demonstrate, that this value must be in direct proportion to the uses; for it would really amount to no more than the proof of an axiom universally acknowledged, That the effect shall always be adequate to the cause. Therefore, in all future arguments, I shall take it for granted.

The fund ought to be as satisfactory to mankind as human wisdom can devise and furnish.

The community should become security to answer all deficiencies in the FUND; this is not only the highest justice, but the best policy. It is just, because it is a creature of
their

their own, calculated for their private utility and advantage, and is in the management of the country by their representatives and officers. But when they receive an interest from the money, the equity of it is unanswerable: for it seems wholly inconsistent with justice, that one should receive the interest, and another run the risque of the principal. Policy requires it, because the community will certainly receive more profit from its credit under their support, than, with due caution, they can probably lose by accidents in the fund.

Our next consideration, with respect to the value, turns on *what* the fund is to pay, and *when*. These are arbitrary, being within the power of those by whose authority the money is emitted. But for the present purpose: let us suppose it is to pay silver money, according to the late Queen's proclamation, to the value of 1000 l. for so much of the paper, as, according to the *nominal value*, amounts to that sum at the end of 15 years. In this state the 1000 l. paper, *with regard to the fund alone*, at the time of its emission, is worth no more proclamation money than what will produce 1000 l. of that money at the end of the term, at compound interest, under as good security.

For

For example, take a 1000*l.* paper, and let it represent that the possessor shall receive 1000*l.* proclamation money for it at the end of 15 years, and let the use of money be worth 6 per cent. per annum; rebate 6 per cent. per annum with compound interest for 15 years, and you have the value of the 1000*l.* proclamation money in hand, which appears to be but 417*l.* 5*s.* 3*d.* $\frac{1}{2}$; more it cannot be worth, because 417*l.* 5*s.* 3*d.* $\frac{1}{2}$ with 6 per cent. per annum compound interest for 15 years added, will amount to 1000*l.*

On this state it appears, that the longer the term, the less the value, with regard to the fund alone. From whence it follows, that by increasing the term, this value may be reduced to a degree beneath estimation. But whatever the value thus proved be, I call it *intrinsic*.

The FUND established, I proceed to the uses, as they next require our attention in regard to the value of paper-money.

If value, in respect to the uses of things, shall always be in direct proportion to those uses, (which I presume I have heretofore proved in general, and shall hereafter shew is true in relation to paper-money) and we design to raise the power—it follows clearly,

—that

experience

that to bring this to pass, * we ought to give it all the uses of money, or coined gold and silver in other countries. From these uses alone it must derive all the worth it shall bear beyond what I called the *intrinsic* value. For the purpose *take the case stated on the fund only*, that the possessor of 1000 *l.* paper shall receive 1000 *l.* proclamation money in exchange for it, at the end of 15 years. On this account the paper appeared to be worth but 417 *l.* 15 *s.* 3 *d.* $\frac{1}{2}$. But suppose this 1000 *l.* paper may be immediately exchanged for 800 *l.* proclamation money, which is 382 *l.* 14 *s.* 8 *d.* $\frac{1}{2}$ more than the intrinsic worth, how has it acquired this exceeding price or value? I think plainly from the uses. To prove the truth of this, suppose all the uses as money taken away, unquestionably then the worth of 1000 *l.* paper in proclamation money will be reduced to what I call the intrinsic value; because, depending upon the fund alone, it will be exactly in the state of a fund to be paid at a future day; for in neither case can the creditor use it in the mean time. But if the creditor can by any contrivance use the sum in that time, as he may the paper when it passes for money, that use must be something worth. And when

* This cannot be done if the individuals have transactions, and consequently *use* for this money beyond the limits of the authority of the jurisdiction of the community. — See p. 285.

experience shews, that under this use the value advances from 417l. 15s. 3d. to 800l. I apprehend it is evident to a demonstration, that the difference is derived from the use. To deny it, must be as irrational and absurd, as if, upon adding and extracting an ingredient to and from a composition, we perceived properties in the composition appear and disappear, and yet were to deny that such ingredient was the cause of those properties. This leads me to attempt the solution of a question I have known frequently made. If we in Pennsylvania, upon a sufficient fund answerable in silver, at a future day, mint a quantity of paper equal to the uses of the people for money, and they willingly and universally accept of the paper in all payments, why should it not, at all times, have *value equal to the nominal value*, or to the sum chargeable on the fund at the day to come? This reason, urged by many, to support the paper to this degree, is drawn from the nature of money in general. Money, say they, is but a ticket or counter, which represents to the mind of the possessor a quantity or degree of power. No man, on the receipt of it, ever examines how, or from whence it acquired that power, but in order to discover its reality and duration. For instance, when an English crown is received, does the acceptor regard any properties in the metal, or the figures of it, but those

those which are to convince him that it is what it appears to be? a crown. It must be confessed, he does not. If so, then why may not a piece of paper, under distinguishing characters and impressions, affixed by law and common consent, have the power of an English crown annexed to it? It is to pass in the same manner as a crown does, and in the end will as certainly be a crown as the real one.

Therefore they conclude, that the paper may, and ought at all times, to be esteemed equal to the quantity of silver the fund is to yield for it at the end of the term.

I confess I think this reasoning fair, and the conclusion just and satisfactory, if we do not use silver in our *commerce, foreign or domestic*; otherwise not. The fact is, we do use silver in our *foreign commerce*. I presume it will be easily admitted, as the paper represents the silver in the fund, and from thence obtains its credit, that it shall always be at least of equal use with, or be as readily received as paper. Then if silver in hand has one power, *one use more* than the paper, (to wit, that of procuring foreign commodities) it is impossible we can esteem them equally. For that would be to controul the different virtues and influences of things over the mind of man, which necessarily depend-
ing

ing upon the things themselves, no laws or consent can, by any means, vary or direct. Wherefore, in the case stated, it seems to me certain and undeniable, that the paper must have less worth than the silver.

Having said, that the uses of the paper should be as many as possible, it may be proper for me to speak of some of those uses, the equity and advantage of which have been very much controverted. * But here let it be understood, that I proceed upon the case last stated; that the quantity of paper is to be equal to all the uses of money *within* the country. For that state, and a partial supply of paper credit, differing in principles, require different reasoning, and infer quite opposite consequences.

First, then, it seems just and reasonable to compel all persons contracting for silver money, after the law, that raises the paper money to be paid in the country is enacted, to receive the paper in lieu of it, and at the value struck from the fund, although that be inferior to the real value. This perhaps may not be strict equity *between the contracting parties*, but it is just *from the community*, who have power from the consent of every member, by laws, to prohibit the exercise of a parti-

* Here the proposition is rightly stated and guarded.

cular

cular natural right, inconsistent with the welfare of the whole, and to inflict a penalty upon disobedience to the law. To use silver or gold with the paper, must depreciate the latter. Therefore the law forbids it. This can't be unfair, because every man has notice of what coin he is to be paid in, and is *not obliged to exchange more* for the paper, than he thinks agreeable to the *real worth*. And if any should endeavour such use, the loss of the difference between gold or silver and paper, is a kind of penalty for violating the law, which must be as just as any other penalty imposed on an act, *not evil in itself, but prohibited only*.

Again, upon breach of contracts for payment of money in foreign countries, I think it both convenient and right, that satisfaction should be made in the paper. The convenience of it will appear, if we suppose the debtor a member of the society amongst whom the paper passes; for as such, being restrained by law from trafficking for gold or silver, and thereby disabled from procuring them, he must either pay paper in compensation, or lie in a gaol, if the severity of his creditors requires it. In these circumstances, no man in his senses would dare to contract a foreign debt, or transfer foreign money in the usual manner, by exchange;

change; the bad consequences of which are too numerous and obvious to admit of, or need particular mention, and evidently prove the convenience of allowing satisfaction to be made in paper.

The equity of this satisfaction will be indisputable, if the debtor pays a sum of paper really of equal value with the foreign money. It is the common case on breach of specific contract. If it cannot be performed, the most exact justice requires no more than *an equivalent compensation*.

Some persons imagining the real worth of the paper equal to the nominal, have affirmed, that it ought to discharge these debts *at the nominal value*; others confessing a difference between these values, under some political views, have asserted the same. As I shall have occasion to speak on these opinions hereafter, upon a point similar to this, I shall only add here, that if this mode of payment should take place, it would as effectually destroy foreign credit and negotiations by exchange, as if gold or silver were to be insisted on here, to discharge a foreign debt. In one case, it would be the highest imprudence to be the debtor; in the other, it must be equally indiscreet to become a creditor.

U
Pursuing

Pursuing the uses, I come to that of discharging by paper, the silver debts contracted antecedent to the law that raises the paper.

To shew the necessity of admitting this, I suppose it will be granted me, that there must at all times be a very great number of debtors who depend on their future labour and industry to pay their debts. This dependence is reasonable and just, founded on the natural right of all fairly to purchase silver, the then current money of the country. The debtor has the continuation of this right in view and expectation at the time of his contract; without it he cannot be supposed either prudent or honest to borrow. If then, for the convenience and advantage of the whole society, this right must be taken away by a subsequent law which he could not foresee, it cannot be agreeable either to reason or good conscience, to exact a payment in specie, for that would be requiring a performance when the law had expressly taken away the means. Therefore I think it clear in respect to the debtor, that the paper should have this use. But how will this stand with the right of the creditor, who upon the contract as certainly expected to be paid silver, as the debtor did the opportunity of acquiring it to pay?

I presume, if he receives as much paper as shall be equal in power or value to the silver, it will be just in itself, and perfectly satisfactory to him. But can any man offer so high a degree of violence to his own reason, and the understanding of others, as to affirm, if he is forced to accept less, that still he has justice dispensed him? If I borrow 100*l*. in silver before the law, under agreement to repay it at the end of the ensuing year, and before the day of payment comes, the law takes place, commanding the lender to receive 100*l*. paper for it, which shall be worth, or have power to procure 82*l*. silver money only: with truth can this be called a rational or upright law? Certainly not. Nor shall it be any justification to me in conscience to detain 18*l*. of my creditor's money.

The rules of natural justice flowing from our fixed and unchangeable relations to each other, and the invariable nature and order of things, enforced by the express commands of God, are of eternal and indispensable obligation. No laws, no combinations of human power, customs, usages, or practice, can controul or change them. We may, by the consent of a majority, tie up the compulsory hand of the civil magistrate, and thereby dissolve the power of coercive

laws;

laws; but can no more absolve from the moral duty, than we can reverse decrees enrolled in heaven. If my debtor should be so extremely weak, as to suppose this not criminal because it is legal, (which I think next to impossible to imagine of a rational creature, and I make bold to affirm, never was the case of a creditor of understanding, sufficient to know the measure of his demand) his opinion perhaps may serve for an excuse, or extenuation of his crime, but never can prove the rectitude of the act, and still the guilt must rest somewhere. The law-makers, the authors of this mistake, are culpable, unless they are under the same delusion, which is yet more difficult to apprehend. Some, who gave up the justice of the law, defend their practice under it, by saying, they are creditors as well as debtors; and as they are obliged to receive, so they should have liberty to pay. Alas! what feeble arguments satisfy, when they are cast into the scale of interest, and gain is the consequence of conviction! If the actions of men towards us are to be the measures of our dealing with others, then he that is cheated by any person, may justly plunder the next he meets. And truly I cannot see why it should stop here; for as we may be many times defrauded, and not know it, to be secure, and keep the ballance on the right

side, we should pillage our neighbours as often as an opportunity offers. This may seem severe reasoning, but really I think it fair from the first position; that because one keeps back part of another's due, therefore he may honestly detain the right of a third innocent person.

Again, paying an equivalent cannot be injurious to the debtor. For suppose he pays 120/. paper. If 100 pounds worth of coined silver, reduced to bullion, will then yield him so much, what does he more than perform his contract to pay 100/. of coined silver? seeing a complete recompence is perfectly consistent with the right of each contracting party. Any remaining objections must arise from its being hurtful or injurious to the society in general. This has been asserted, and endeavours have been used to support the truth of it, by this kind of reasoning.

First, If the law should oblige the debtor (for the purpose) to pay 120/. paper in lieu of 100/. silver, the legislature would thereby confess the inferior worth of the paper; which will be attended with this ill consequence, that the general current value of the paper shall be less than if the law had declared it equal to silver.

Secondly,

Secondly, That lessening the current value will be a loss to the society in general. To the first, That obliging to pay a larger sum of paper for a less of silver, acknowledges an inequality of value under the like denominations, is self-evident. But from thence to infer, that the paper shall pass in general, at less value than if they had been declared equal, with submission, I think mistaken, and inconclusive reasoning.

To be clearly understood, permit me to examine this upon the fact. Suppose the law, in the strongest terms, enacts that the paper shall be in value equal to silver money, according to their several denominations. Carry the paper from thence to use, by offering it in exchange or payment for some commodity, and then I ask a short question, Who it is that really sets a value on the paper, the legislature, or the person that has the commodity to sell? If it be answered, the first, then I say, this cannot be, unless they also limit the price of the commodity. For if the seller can raise and proportion the price of it to what he thinks the real worth of the paper, (the law-maker's declaration notwithstanding,) it is he that strikes the value, and not they. For instance; put the case, a farmer, just upon emitting the paper, has a bushel of wheat to sell, which he rates at,

and will not part with under * three silver shillings. The future current worth of the paper being unknown to him, let him by guess imagine these three shillings equal to four shillings paper. A purchaser then presses him, under the influence of the law, to accept of three paper shillings for this wheat; but he, without regard to the law, according to his own opinion, demands and receives four shillings for it. Will any man say, the legislature determined the value of the paper here? Apparently the seller did. For the legislature commanded, that the three paper shillings should be valued at three of silver, but the farmer has made his estimate at three fourths of that value only. Unquestionably the vender must always have this power, unless, as I said before, the law-makers can limit the price of all commodities; which is not practicable, consistent with the order of things, or the preservation of men's properties. But it may be alleged, Although the receiver of the money is not bound to observe the legislative command, yet still it may have some weight. He may consider it to be the impartial opinion of the wisest part of the society, what the future current value of the paper shall be, and thereby add, in some degree, to its worth.

* This, at the time when this paper was written, was the current price of wheat at Philadelphia.

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In answer I must observe, first, this gives up the point of power, and changes it to a matter of mere advice. Then, supposing that of any import, surely delivering it in a mandatory way, will be very little able to produce the desired effect. Imperative advice (pardon the expression) favours too much of selling the rabbit, to prevail or persuade. In short, the words command and advise, convey two ideas so widely different, and so opposite and repugnant to each other, that it is absolutely impossible we should take the first for the last. But granting it to be interpreted as a piece of cordial advice—Shall it be received implicitly, and pass without any examination? I presume not. When it comes to be examined, if the people should be informed, that, upon a nice examination, the legislature had found a fourth, fifth, or sixth difference between silver and paper, as such calculations are generally out of the reach and comprehension of most people, it seems not improbable that the paper might pass at first, agreeable to the given difference. *I say at first*; for I contend, if the calculation should be erroneous, (which the use of the money in time will discover) this effect shall not be lasting. But if, on the contrary, they learn that the paper, without any calculation, by guess, was pronounced equal to silver, which every man's judgment, who

knows the superior power of the last, must disapprove of, what influence can the legislative advice then have? Undoubtedly it will be universally rejected, and each person turned at large to make his estimate as well as he can, without the least regard to the legislative opinion.

Once more, Take it, that the quantity of silver in 100 shillings proclamation money is now worth 120 paper shillings in Pennsylvania; and suppose this requisite had hitherto been omitted in all laws relating to the paper; let the supreme authority to-day enact, that from henceforth all persons shall give as much for 100 shillings paper as they do now for that quantity of silver; would this make the least alteration in the current value of the paper? Might a man, with reason, expect to buy more bread or wine to-morrow with 100 paper shillings, than he can to-day? if the legislative power can bring this to pass, perhaps it may prove more than some people desire; for I conjecture it will shew, that we never had any occasion for paper. Whatever quantity of silver we had amongst us, when the paper was struck, might have been extended in value proportionable to our wants, and all the business of paper-money done at once. The absurdity of this lies open to the meanest capacity;

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yet I aver, that to raise the value of paper by authoritative words or commands, is equally irrational and unfeasible.

I know no just means whereby mankind can give value to things, but increasing or lessening the *uses* or *quantity*. The paper derives its *intrinsic worth* from THE FUND, which is stable and fixed. The *uses* give it further value, but that shall always be in inverse proportion to the quantity. The quantity is absolutely under the direction of the legislature, but the uses not. As they are raised, so they must be limited, by our necessities, and the disposition and order of things. The utmost the legislature can do, or is needful to be done, is to make the paper answer ** all those uses*. When they have ascertained the FUND, the *uses* and *quantity*, their power expires. And the current value, if the people receive it, flows from them by so unavoidable and necessary a consequence, that whatever the legislature or others will or do, (if it alters not the fund, uses, or quantity) can work no change in it in general. For a time, as long as people are ignorant, I confess it may; but when experience, that excellent mistress, has disclosed

* Within the limits of their jurisdiction; for it cannot answer all the uses, namely, exchange without that jurisdiction.

what

what worth they give, all imaginary value shall cease and vanish, and on the three requisites, as on a solid and firm foundation, it shall ultimately rest and settle.

I conclude what I have to say on this point with a short observation. That all the attempts of assemblies in America in this way, even by penalties on disobedience, have proved fruitless and abortive. And it has been extremely remarkable, that although transgressing the law, by making a difference between silver and paper, has been every day's practice; not in secret, but openly; I have never heard, that any person has been so much as questioned publicly, or has lost any degree of reputation privately, for doing it. So far do the dictates of just and right reason, surpass and transcend the force and power of any human device or institution, that opposes or contradicts them.

I come now to consider the second position; That lessening the current value will be disadvantageous to the society in general.

This cannot be maintained without proving, that it will occasion a loss, or obstruct some gain.

A society can gain but two ways; from the earth, and from their neighbours. When I

say

say from the earth, I do not mean from her simple productions only; for I include therein men's labour and manufactures upon them afterwards: and they can lose only by the contrary, neglecting the fruit and product of the earth, and suffering their neighbours to carry away their wealth.

I presume it will be very hard to shew, how a different valuation of the money can influence the industry of the land-holder or the artisan.

Upon the quantities of the fruits of the earth, and manufactures produced, entirely depend the wealth of the country. A farmer and tradesman, for a certain portion of their commodities one year, receive 8 shillings, and with them can purchase an ounce of silver. The money being raised in value next year, they can get but 7 shillings for the same quantities; but still that sum will buy an ounce of silver. Can this difference, in the value of the paper, cause the one to till the more or less ground, or the other to make a greater or less quantity of his manufacture? What is it to them how the money is rated, if they receive and part with it at the same value? Gold, comparing quantity to quantity, is more valuable than silver. If silver was to vanish out of the world,

world, and gold should be made the only medium of commerce, can any one imagine that mankind would grow more industrious to procure it, because more valuable than silver, when the quantity they shall get must be proportionably less? Do we in fact find these different effects from gold or silver at present? I think we may as reasonably expect, that varying the measure of the bushel or yard, will induce people to make more or less corn or cloth; as that changing the value of the money, which is another kind of measure for commodities, should excite or abate men's diligence to raise and make them.

All gain from our neighbours must be by getting their money or their goods. These are to be acquired only by conquest or commerce. The first I pass over as impertinent to this purpose. Then let us see whether advancing the value of the money can reflect any gain to us from them in the latter. Gain in trade may be considered as derived from the manner or the measure of it. The manner of trade in general is of short circuit; and consists of importing foreign money or commodities, and the exportation of our own. In these negotiations we shall find the worth of the paper affords us no advantage over, or an opportunity to get from our neighbours.

Suppose a foreigner imports 800 l. proclamation money, and finding That not the medium of our commerce, proposes to exchange it for paper. Let the value of the paper be such, that he can get but 800 l. of it for his silver. With the paper he purchases corn, which he transports. What have we got from this foreigner? 800 l. in silver. Should we have got less had he received 1000 l. for his silver, and with it bought the same quantity of wheat? Certainly no. Neither case makes us richer or poorer than the other; and the same consequence will be found to attend all foreign imports whatever.

When we export our commodities, the value of the paper is quite out of the question; for in their sales, or the returns, it is in no sort concerned. If we send the paper abroad, and sell it, unless it be kept in expectation of what the fund will yield for it at the end of the term (which I intend to speak to hereafter) we shall find it but an exchange of merchandizes between us and them. For the seller brings the goods he receives here, and the buyer, by means of the money, carries back our goods; the paper is but a measure, as it was in the case of imports and exports in return; and if it be rated alike abroad and at home, no loss

loss or gain can ensue to either country, or to the traders, from a high or low valuation of it.

He that is not satisfied by these reasons, may perhaps be convinced by the experience of others. The coins of England being finer than those of Holland, quantity to quantity, are of more value; but was it ever thought the English had therefore more power or traffick, to obtain the money and merchandize of other nations, than the Dutch?

Were it possible that the profit of trade could be affected by lowering the coin, that cunning and skilful generation would hardly have debased theirs by design, much less have continued for so long a time as they have done. * The paper-currency of New England, by a great excess in the quantity, is sunk to a shameful degree. From hence we hear of much fraud and dishonesty amongst them; but it was never yet objected that it injured them in trade. In truth, if it had, as they principally subsist by com-

* These facts must be referred to the time in which this treatise was written, twenty years ago. — These evils have been remedied by the acts of parliament restraining the assemblies from making their money a legal tender.

merce,

merce, they must have been ruined and undone long ago.

The currencies of North and South Carolina are in the same condition; but still their trades go on as usual, without the least alteration. In respect to the measure of our commerce, it is evident that cannot be impaired by reducing the value of our money, unless we are thereby deprived of a sufficient quantity to carry it on: for instance, if 60,000/. proclamation money be necessary to carry on all our trade, and we strike 60,000/. paper, in hopes it shall have the value, upon experience it proves worth but 50,000/. proclamation. Then, for want of the remaining 10,000/. some of the wheels of trade must stand still or move slower, which apparently will obstruct a part of our gain. But the impediment vanishes, by raising an additional sum of paper equal to the 10,000/. deficiency. The power of doing this we have hitherto enjoyed and exercised without any restraint; and probably shall retain as long as we use it with discretion and prudence.

Seeing then, that by raising the value of our money, we are not likely to get any thing from our neighbours, let us now try whether by lowering it they can get any thing from

us. I presume I have proved, that in common commerce, receiving and returning the money for merchandizes, they cannot ; consequently no method remains, but keeping the money to receive silver from the fund at the end of the term. By these practices they can gain from us only upon one supposition ; that they purchase the money at less than what I call the intrinsic worth : for if at more they lose by it, and we gain from them. I have shewn, rating interest at 6 *per cent. per annum*, that 1000 *l.* payable at the end of 15 years, is worth 500 *l.* (to take a round sum) in hand. If our neighbour can buy it for 400 *l.* he gets 100 *l.* from us. But on the contrary, if he gives 800 *l.* for it, he loses 300 *l.* For he lends us 800 for 15 years, at 2 *l.* 8 *s.* *per cent. per annum*, when it is really worth 6 *l.* and the difference, which on computation will be found in the whole to amount to 300 *l.* or nearly, we gain from him. But neither of these cases can possibly happen, while men have the least capacity to discern and preserve their own interest. Indeed I have never heard one sound reason, either moral or political, for this manifest deviation from justice and equity. So far is it from good policy, that if I am not mistaken, it must work an effect contrary to the design ; and instead

instead of supporting the credit of the paper, undermine and diminish it.

The public authority is guarantee for the payment of all just debts. Every body must agree; that the value of paper money is nothing but so much public credit. Now, is it possible for the public authority to break its own engagements, in respect of the payment of the debts, without in some degree blasting that credit which is to be the support of the money? Public and private faith are, in this respect, exactly alike; and it is as easy to see how violating one public obligation shall impair the value of the paper-money; as how a known breach of private contract in a goldsmith should lessen the worth of his bills or notes.

A second inconvenience attending it, is loss of foreign credit, which must be a great misfortune to a trading country. This is occasioned in the same manner, by which I just now shewed the value of the money might be affected; and let it not be thought amiss that I mention a third inconvenience, namely, prostituting and debasing the dignity and excellence of the divine and moral laws in the eyes of the people, and encouraging them, by ill practices and examples, to depart from true honesty and virtue. For

if a man can once believe, he may justly, by a human authority, transgress those laws, he loses much of the due and necessary respect that ought to be paid them, and shall afterwards be able to resist their checks and admonitions with greater ease and facility: and he that owes to 20 people, and pays them with five sixths of their due, and sees his neighbour do the like, under colour of law to-day, will, I am afraid, with less regret and compunction, defraud his creditors without a law to-morrow.

But now, granting that intire recompence ought to be made, it may be asked how the quantum of paper to be paid, for antecedent silver debts, shall be ascertained.

The legislature cannot settle it with exact justice, because no skill can discover what the future current value shall be, and if the people are left to do it themselves, it will introduce many law-suits and oppressions, and still they may be as far from right as if the legislature had done it. The greater inconveniences in the latter, rationally determine the power to the former. When they come to exercise it, if it is the first experiment of the kind, I imagine they can do little more than guess at the value. But as it is within demonstration, that the paper cannot be

equal to silver, surely it ought not to be rated so. Impartiality requires the guess to be as near as may be, and then, although it may be mistaken upon the laws of change, it may be perfectly equal, because either party may lose or gain. It is a common case in life, and must be always so in untried things; and no man can justly complain of the event, because all errors are owing to our weakness, not our faults.

If any of our neighbours have issued paper-money, the value of theirs will afford us strong lights to discover the worth of our own, and allowing for different circumstances, we ought to rate ours as they have found theirs upon trial. But when experience has taught us the true worth of the money, all difficulty ends, and whatever debts or pre-contracts remain (as many from their growing nature must) should be satisfied according to that value.

I have now run through all the uses that occur to me worthy of observation; and therefore shall proceed to the quantity.

When it is designed, that paper shall be the only money of a country, the quantity, according to the nominal value, ought to be, as near as possible, adequate to the uses,

suppose

or

or in other words, to all commerce, foreign and domestic. It is easier to see the truth of this rule in speculation, than to reduce it to practice: because the number and extent of the uses of money, in a populous and industrious country, are far beyond our knowledge and comprehension. From the circumstances of other places, the quantity of money current before issuing the paper, and the value of their exports, rational conjectures may be formed, but experience alone can teach us what sum will suffice. To strike the necessary quantity at once, would be most advantageous to the society, and equal with respect to individuals; but as that cannot be known, let it be approached as near as may be. And since we may expect to err, I presume it will be better to err on the side of deficiency than excess, seeing additions are easy, but subtractions oftentimes very difficult after the emission.

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